

Attachment C

**Resolution of and Report to the Local
Planning Panel – 23 May 2018**

Resolution of Local Planning Panel

23 May 2018

Item 11

Local Planning Panel - Delegations

The Panel decided to:

- (A) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, delegate its functions as a consent authority in relation to legal proceedings arising from a decision of the Local Planning Panel (or a decision that would have ordinarily been required to be dealt with by the Local Planning Panel) to the positions of Director City Planning, Development and Transport, Executive Manager Development and Manager Planning Assessments.
- (B) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, delegate its functions as a consent authority in relation to modification applications under sections 4.55 and 4.56 (former section 96 applications) to the positions of Director City Planning, Development and Transport, Executive Manager Development and Manager Planning Assessments.
- (C) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, delegate its functions as a consent authority in relation to development for which council is the applicant or land owner and the application proposes:
 - internal alterations and additions to a building that is a heritage item; or
 - temporary installation of public art; or
 - a temporary event;
 to the positions of Area Planning Manager and Manager Planning Assessments.

Carried unanimously.

S083226.006

Item 11.**Local Planning Panel - Delegations****File No: S083226.006****Summary**

This report recommends that the Local Planning Panel delegate its consent authority functions in relation to legal proceedings and section 4.55 and 4.56 applications to the positions of Director City Planning, Development and Transport, Executive Manager Development and Manager Planning Assessments. It is noted that this would represent an amendment to the delegation that was issued by the Local Planning Panel at the meeting of 28 March 2018.

In addition to this, this report recommends that the Local Planning Panel delegate its consent authority functions in relation to development where council is the applicant or land owner and the application proposes internal alterations and additions to a building that is a heritage item; where council is the applicant or land owner and the application proposes the temporary installation of public art or a temporary event to the positions of Area Planning Manager and Manager Planning Assessments.

Recommendation

It is resolved that the Local Planning Panel:

- (A) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, delegates its functions as a consent authority in relation to legal proceedings arising from a decision of the Local Planning Panel (or a decision that would have ordinarily been required to be dealt with by the Local Planning Panel) to the positions of Director City Planning, Development and Transport, Executive Manager Development and Manager Planning Assessments.
- (B) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, delegates its functions as a consent authority in relation to modification applications under sections 4.55 and 4.56 (former section 96 applications) to the positions of Director City Planning, Development and Transport, Executive Manager Development and Manager Planning Assessments.
- (C) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, delegates its functions as a consent authority in relation to development for which council is the applicant or land owner and the application proposes:
 - internal alterations and additions to a building that is a heritage item; or
 - temporary installation of public art; or
 - a temporary event;to the positions of Area Planning Manager and Manager Planning Assessments.

Attachments

Attachment A. Local Planning Panels Direction - Development Applications

Background

1. The City of Sydney Local Planning Panel was established by resolution of Council on 19 February 2018.
2. The Minister for Planning issued a direction under section 9.1 of the Environmental Planning and Assessment Act 1979 (the Act) on 23 February 2018 prescribing the development applications that are to be determined by Local Planning Panels on behalf of Councils in the Greater Sydney Region and Wollongong. The referral criteria for the City of Sydney are identified in Schedule 3 of the Direction. The Ministerial Direction can be found in Attachment A.
3. The first meeting of the City of Sydney Local Planning Panel was held on Wednesday 28 March 2018.

4. At the meeting of 28 March 2018 the Local Planning Panel resolved to delegate its functions as a consent authority to the Chief Executive Officer in relation to legal proceedings and in relation to modification applications under section 4.55 and 4.56 of the Act.

Delegations and Referral Criteria for Local Planning Panel

5. Section 2.20(8) of the Environmental Planning and Assessment act 1979 enables a Local Planning Panel to delegate any function of the Panel (other than the power of delegation) to the general manager or other staff of the council. Section 381 of the Local Government Act does not apply to any such delegation.
6. At the meeting of 28 March 2018 the Local Planning Panel resolved to delegate its functions as a consent authority in relation to legal proceedings arising from a decision of the Local Planning Panel (or a decision that would have ordinarily been required to be dealt with by the Local Planning Panel) and its functions as a consent authority in relation to modification applications under sections 4.55 and 4.56 to the Chief Executive Officer.
7. At the time of this decision it was expected that the Chief Executive Officer would be able to sub-delegate these functions to appropriate staff in the City Planning, Development and Transport Division who are responsible for the management of development applications and legal appeals. However advice has been received that the consent authority functions of the Local Planning Panel cannot be sub-delegated.
8. To ensure that the most appropriate position within Council is delegated authority to exercise the functions related to legal proceedings and the determination of section 4.55 and 4.56 applications it is recommended that the Local Planning Panel delegates these functions to the positions of Director City Planning, Development and Transport, Executive Manager Development and Manager Planning Assessments, rather than the Chief Executive Officer. This would be consistent with delegations prior to the formation of the Local Planning Panel.
9. As stated in the report presented to the 28 March 2018 Local Planning Panel meeting, the authority related to legal proceedings would include the exercise of powers, authorities, duties and functions of the Local Planning Panel during the course of legal proceedings involving development applications that have been determined, or would otherwise have been determined, by the Local Planning Panel. This would also include the authority to bind Council in any agreements as to the resolution of a planning appeal, notwithstanding that the outcome may be contrary to a decision made by the Local Planning Panel. In instances where these powers are exercised, the Local Planning Panel will be advised.

10. The Panel Chair has also suggested that the Local Planning Panel consider delegating its consent authority functions to staff in circumstances where council is the applicant or land owner and the application proposes internal alterations and additions to a building that is a heritage item. It is noted that the section 9.1 Ministerial Direction only requires the referral of a development application where council is the applicant or land owner for internal alterations to a building where the building is a heritage item, it does not require referral of these applications if the building is not a heritage item. The City of Sydney owns a substantial number of buildings some of which are heritage items. This means that each time an application (often made by a building tenant) is lodged to carry out internal alterations to a building the application must be referred to the Local Planning Panel. Recent examples of where this has occurred is the State Heritage Listed Queen Victoria Building. The QVB is owned by the City of Sydney but the property is managed by an organisation independent of the City. Since the commencement of the Local Planning Panel five development applications for small internal alterations to retail tenancies in the QVB have been referred to the Local Planning Panel for determination. This adds significant time to the determination of these applications, which if not for the building being heritage listed would be exempt development and would not require any form of development consent. These administrative procedures ultimately add to the cost of development for the retailer and are not necessary or appropriate for these small scale and minor applications. On average the City of Sydney would receive approximately 30 such applications on an annual basis.
11. This report also recommends that the Local Planning Panel delegate its consent authority functions to staff for other minor council related applications such as temporary events and the temporary installation of public art. This would be consistent with delegations prior to the formation of the Local Planning Panel. Council encourages the use of the public domain for a range of temporary community and civic events and this can often include the installation of public art associated with these events. Often these types of temporary events or art installations are exempt from requiring development consent, but where they are not exempt they are required to be referred to the Local Planning Panel for determination. Due to the nature of these applications, the request for approval is often made close to the date of the event which will often preclude the application from being reported to a Local Planning Panel meeting prior to the event occurring. There are a significant number of issues which arise if an application has not been determined before the event takes place and this situation should be avoided. These application types represent minor temporary works or uses, generally have minor 'environmental impacts' and are generally provided for community benefit and not for profit. For these reasons, it is recommended that the Local Planning Panel delegate its consent authority functions to the positions of Area Planning Manager, Executive Manager Development and Manager Planning Assessments for the following applications where the applicant or land owner is council and the application proposed:
 - internal alterations and additions to a building that is a heritage item; or
 - temporary installation of public art; or
 - a temporary event.

Relevant Legislation

12. Environmental Planning and Assessment Act 1979.

Critical Dates / Time Frames

13. Local Planning Panels commenced operations from 1 March 2018.
14. The first meeting of the City of Sydney Local Planning Panel was held on Wednesday 28 March 2018.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Louise Kerr, Executive Manager Development