



MEMORANDUM

At its meeting on 12 February 2019, the Inner West Local Planning Panel considered a Memorandum, material listed at Item No 1, IWLPP662/19, seeking that the Panel delegate back to Council minor development and modification applications.

This intent of this was to enable staff to determine the less complex and uncontroversial applications in order to reduce wait times for applicants and improve the ability of the Inner West Local Planning Panel to deal with genuinely complex and controversial matters.

The adoption of those matters as referenced are included in Attachment A.

Section 4 of the Instrument of Delegation addresses Site Coverage in the former Leichhardt Local Government Area as follows;

4. Site Coverage in the former Leichhardt Local Government Area

Variations to the development standard for site coverage set out in the Leichhardt Local Environmental Plan 2013 limited to Development Applications only for the following low density residential development types:

- a) dwelling houses*
- b) semi detached dwellings*
- c) attached dwelling*

With the recent gazettal of the Inner West LEP 2022 on 12 August 2022, the terms of the Instrument of Delegation would need to be updated to allow the Manager of Development Assessment to consider site coverage breaches that exceed 10% under the new LEP, as at this point in time, the existing document suggests that any applications lodged on or after 12 August 2022 with a site coverage breach that exceeds 10% will need to be reported to the Panel.

As such it is recommended that the wording for Section 4 of this document be amended to include reference to the new IWLEP 2022 as follows;

Site Coverage in the former Leichhardt Local Government Area

*Variations to the development standard for site coverage set out in the Leichhardt Local Environmental Plan 2013/ **Inner West Leichhardt Local Environmental Plan 2022** limited to Development Applications only for the following low density residential development types:*

- a) dwelling houses*
- b) semi detached dwellings*
- c) attached dwelling*

Submitted for consideration

Ruba Osman
Acting Development Assessment Manager
Inner West Council

Attachment A- Agenda Item 1 presented to Panel and Minutes - 12 February 2019



MEMORANDUM

At present, the Inner West Local Planning Panel sometimes holds two meetings per month, with agendas of up to 10 items. Many of the matters considered by the Panel are minor and uncontroversial in nature. There is a significant backlog of Development Applications awaiting a spot on the Panel agenda. In order to improve the efficiency of the Panel 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 *Environmental Planning and Assessment Act 1979*:

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 Panel exercise this power for three separate development types. These include minor heritage matters (including trees), limited modifications of previous Panel decisions, and site coverage within the former Leichhardt Council area. These are discussed in more detail below.

This will reduce the volume of minor Development Applications being reported to each Panel meeting, and in turn reduce waiting times for applicants, and improve the ability of the Inner West Local Planning Panel to deal with genuinely complex and controversial matters.

The draft delegation has been agreed to, in principle, by the Panel Chairs and Senior Council staff. A recommended instrument of delegation is attached at **Appendix A**.

1. Works to heritage items

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

Often, the Development Applications which come before the Panel under this criterion are not controversial or the affected parts of the building may not be of heritage significance.

It is appropriate that the Inner West Local Planning Panel delegate to staff the power to determine Development Applications for heritage items where:

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

Further, it is appropriate that the Panel 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 and the applicant's and Council's experts agree 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. Modifications to Panel-issued Development Consents

It is appropriate that the Inner West Local Planning Panel delegate to staff certain modification applications to development consents which have been previously determined by the Panel.

The rationale for such an arrangement is to ensure that the Panel only sees those modification applications which have a wider public interest, to keep the volume of applications going to the Panel at manageable levels, to relieve the Panel of determining applications which have no real public interest (many of which are routine), and generally improve operational efficiencies.

The determination of modification applications to development consents previously granted by the Panel described in paragraphs 1, 2, and 5 below could be delegated to staff:

- a) Modification applications types ss4.55(1), 4.55(1A), and 4.56 except for:
 - (i) applications involving modification to development to which State Environmental Policy 65 applies;
 - (ii) applications involving modifications to a licensed premises;
 - (iii) applications involving modifications to development where the Council has a conflict of interest.
- b) In respect of all modification applications which propose a change to a development standard:
 - (i) if the original consent was granted with a variation to a development standard greater than 10% and the modification does not change that level of variation;
 - (ii) if the original consent was granted with a variation to a development standard of less than 10%, or no variation, and the application proposes to increase the variation by less than 10%.
- c) Where any proposed modification seeks to modify a non-standard condition imposed by a Panel, being in addition to those conditions included in Council's assessment report, the application must be referred to the Panel regardless of the number of submissions.
- d) In respect of all modification types, regardless of the number of submissions, where a deemed refusal appeal has been lodged in the Land and Environment Court, these can be determined by staff under delegation to enable time frames imposed by the Court to be met.

3. Site coverage in the former Leichhardt Local Government Area

Minor housing applications in the Leichhardt local government area often exceed the site coverage development standard within the Leichhardt LEP.

This is symptomatic of small allotment sizes and a development pattern of row housing, in combination with a conservation-focussed plan which inhibits redevelopment of land.

As a result, many otherwise routine Development Applications for housing 'alterations and additions' come before the Panel. It is appropriate that the Inner West Local Planning Panel delegate to staff the ability to determine Development Applications which entail a variation to the site coverage development standard within the Leichhardt LEP.

4. Caveats

- a) This delegation would only be of effect if a Development Application is required to go before the Panel solely due to the matter being delegated back to Council. If a minor heritage item as discussed at point 1 above crossed another Local Planning Panel 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 Planning Panel.
- b) If a Council Officer is uncertain as to the subjective elements of this delegation (terms such as 'significant fabric' or 'adverse impact'), a briefing may be held with the Panel to make sure a particular application falls within the reasonable limits of the delegation.

Submitted for Consideration

Luke Murtas
Development Assessment Manager
Inner West Council

**APPENDIX A****INSTRUMENT OF DELEGATION**

Under section 2.20(8) of the *Environmental Planning and Assessment Act 1979*, the Inner West Local Planning Panel resolves to delegate its determining functions on the following development types to the Group Manager Development Assessment and Regulatory Services and the Development Assessment Manager:

1. Minor alterations and additions to a heritage item, including:
 - a) Maintenance of at least 90% of the significant fabric; or
 - b) Little or no adverse impact on the significant fabric or setting of the item; and
 - c) Where there is agreement by both the applicant's and Council's heritage expert that the development can proceed.
2. Minor works to trees that are
 - a) Heritage listed; or
 - b) On a heritage site;and, that
 - a) Affect less than (or equal to) 10% of the tree canopy; and
 - b) Will not adversely impact upon the health of the tree; and
 - c) Will not adversely impact upon the heritage significance of the tree or place; and
 - d) Where there is agreement by both the applicant's and Council's experts that the development can proceed.
3. Modification applications types ss4.55(1), 4.55(1A), and 4.56 except for:
 - a) Applications involving modification to development to which State Environmental Planning Policy No. 65 applies;
 - b) Applications involving modifications to a licensed premises;
 - c) Applications involving modifications to development where the Council has a conflict of interest.
 - d) Where any proposed modification seeks to modify a non-standard condition imposed by a Panel, being in addition to those conditions included in Council's assessment report, the application must be referred to the Panel regardless of the number of submissions.

In addition, the following additional modification applications are delegated to staff:

- d) All modification applications which propose a change to a development standard:
 - (i) if the original consent was granted with a variation to a development standard greater than 10% and the modification does not change that level of variation;
 - (ii) if the original consent was granted with a variation to a development standard of less than 10%, or no variation, and the application proposes to increase the variation by less than 10%.
- e) In respect of all modification types, regardless of the number of submissions, where a deemed refusal appeal has been lodged in the Land and Environment Court, these can be determined by staff under delegation to enable time frames imposed by the Court to be met.

4. Site Coverage in the former Leichhardt Local Government Area

Variations to the development standard for site coverage set out in the Leichhardt Local Environmental Plan 2013 limited to Development Applications only for the following low density residential development types:

- a) *dwelling houses*
- b) *semi detached dwellings*
- c) *attached dwellings*

IWLPP662/19 Agenda Item 1	Delegation of function from the Inner West Planning Panel in relation to minor development and modification applications.
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DECISION OF THE PANEL

This matter was decided at 12:05pm

The decision for approval is as per the recommendation with three changes to point 3 to correct typographical errors.

The decision of the panel was unanimous.