

Temporary Local Planning Instrument Explanatory Statement

**No.9 (Protection of the Old Burleigh
Theatre Arcade) 2021**

CITY OF
GOLDCOAST.

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Division 1 – Written statement as to why the local government proposes to make the TLPI and how the proposed TLPI complies with section 23(1) of the Planning Act 2016

As required by the *Minister's Guideline and Rules – July 2017, Schedule 3*

Description of the proposed TLPI

The proposed temporary local planning instrument may be cited as *Temporary Local Planning Instrument No. 9 (Protection of the Old Burleigh Theatre Arcade) 2021 (proposed TLPI)*.

The proposed TLPI applies to land described as Lot 1 on RP72012 and located at 64 Goodwin Terrace, Burleigh Heads (Appendix A Map 1 included in the proposed TLPI).

To prevent the potential loss of the Old Burleigh Theatre Arcade, the proposed TLPI seeks to affect the City Plan 2016 by —

- (a) triggering impact assessment for any removal, demolition or partial demolition of the existing building located on Lot 1 on RP72012;
- (b) identifying land described as Lot 1 on RP72012 on the Heritage overlay map; and
- (c) affecting the operation of the City Plan by amending and adding assessment benchmarks in the Heritage overlay code to ensure that the cultural heritage significance of the Old Burleigh Theatre Arcade is protected and development is appropriately designed and sited to respond to the building's contextual cultural significance having regard to character, setting and appearance of this building.

Under the *Planning Act 2016* (the **Act**) section 23(6), a temporary local planning instrument operates for up to two years. It is intended that the proposed TLPI will be repealed by adoption of an amendment of the City Plan that specifically repeals the TLPI, in accordance with section 24.

Why the local government has proposed to make the TLPI

The building is important and needs to be protected

The Old Burleigh Theatre Arcade has been a significant and integral component to the fabric and character of Burleigh Village since its opening in the 1930s. Based on an assessment conducted against eight, nationally recognised criteria (reflected in the *Queensland Heritage Act 1992*), it has been demonstrated that the Old Burleigh Theatre Arcade has historic significance as a rare example of its building type, for its special association with eminent families responsible for the development of early theatre and entertainment venues on the Gold Coast and its aesthetic and social values.

Previous TLPI

In 2019 the Old Burleigh Theatre Arcade (former De Luxe Theatre) was put up for sale. The provisions on the Gold Coast City Plan were not and still are not adequate to ensure the protection of the place's significance. As the potential demolition of the Old Burleigh Theatre Arcade presented a real and tangible risk to the heritage significance, landmark status and streetscape presence of Burleigh and the City's reputation; the Council of the City of Gold Coast adopted the *Temporary Local Planning Instrument No.7 (protection of the Old Burleigh Theatre Arcade) 2019* (TLPI No. 7)

The TLPI No.7 is due to expire on 30 July 2021.

Why Council is taking urgent action

Since the adoption of the TLPI No. 7, the Council of the City of Gold Coast progressed some changes to protect the building. On 6 December 2019, the Council of the City of Gold Coast resolved to enter the former De Luxe Theatre (the Old Burleigh Theatre Arcade) in the Gold Coast Local Heritage Register. On 27 October 2020, the Council of the City of Gold Coast endorsed changes to the Heritage Code provisions of the Gold Coast City Plan including further protection to stop demolition of heritage items and additions to the mapping for all missing items including the Old Burleigh Theatre Arcade.

As this major amendment will not come into effect before the expiry of the current TLPI No. 7, it is considered that a new TLPI is the only mechanism available to continue to:

- provide timely interim protection from unregulated demolition of this building; and
- allow the City to progress an amendment to City Plan.

If this issue is not urgently addressed through the proposed TLPI, the redevelopment of this site presents a material risk to the Burleigh's heritage, landmark status and streetscape presence in telling the story of Burleigh to current and future generations, thereby resulting in a very poor planning outcome for Burleigh and the City.

Inaction is likely to result in significant reputational damage and does not support the key objectives of the City's Cultural Strategy 2023, *Shaping SEQ Regional Plan 2017* and the *Queensland Heritage Act 1992*.

How the proposed TLPI complies with the Act section 23(1)

Section 23(1) of the *Planning Act 2016*, provides that a local government can make a TLPI if the local government and Minister decide:

- a) there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area; and
- b) the delay involved in using the process in sections 18 to 22 of the *Planning Act 2016* to make or amend another local planning instrument would increase the risk; and
- c) the making of the TLPI would not adversely affect State interests.

The proposed TLPI No.9 satisfies each of the requirements contained in section 23 of the *Planning Act 2016*.

(a)(i) Significant adverse cultural conditions

The Old Burleigh Arcade Theatre is located in one of the City's most prominent coastal villages and based on an assessment conducted against eight, nationally recognised criteria, it has been demonstrated that this building has historic significance:

- as a rare example of its type;
- for its special association with eminent families responsible for the development of early theatre and entertainment venues on the Gold Coast; and
- for its aesthetic and social values.

Despite being afforded protection in the 2003 Gold Coast planning scheme, the current provisions in City Plan are not adequate to ensure the protection of the Old Burleigh Theatre Arcade. This is because City Plan does not appropriately regulate building work involving any removal, demolition or partial demolition of identified character buildings and does not map the site in the Heritage overlay map.

Consequently, this could lead to the removal or demolition of the Old Burleigh Theatre Arcade without Council's knowledge given that such applications are assessed by Private Certifiers. In the event that these Building work applications are referred to Council for comment, the City's jurisdiction is limited in scope to managing the effects of the removal (e.g. requiring bonds for damage to vegetation etc.) rather than the removal itself.

The removal or demolition of the Old Burleigh Theatre Arcade will result in:

- a significant loss to the heritage values and places of significance;

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- undermining the landmark status of Burleigh Village;
 - detrimentally impact the streetscape presence by preventing and hindering the telling of the story of Burleigh to current and future generations;
 - loss of a rare example of its building type;
 - loss of the connection with eminent families responsible for the development of early theatre and entertainment venues on the Gold Coast; and
 - loss of its aesthetic and social values.

(a)(ii) Significant adverse social conditions

Given the identified historical significance of the Old Burleigh Theatre Arcade, the removal or demolition of the Old Burleigh Theatre Arcade would have a significant negative impact on the way the community experiences Burleigh as it will materially impact the streetscape presence, and historical understanding.

The social impact of the potential demolition of the Old Burleigh Theatre Arcade is significant and is likely to have a significant negative influence on the coastal character of Burleigh Heads, particularly given the location of the Old Burleigh Theatre Arcade as directly opposite Burleigh Beach.

It is acknowledged that the City's approach to this landmark heritage site will be closely scrutinised by the community, and the City's reputation will be detrimentally affected in the event of the demolition of the Old Burleigh Theatre Arcade.

(a)(iii) Significant adverse economic conditions

It is considered that the removal or demolition of the Old Burleigh Theatre Arcade could lead to a negative impact on the long-term economic viability of Burleigh. This is because the loss of this significant landmark feature, in such a prominent location, will directly influence the character, amenity and liveability of Burleigh, which in turn could negatively influence business investment and consumer spending.

(b) Increase in risk resulting from delays involved in amending City Plan

As identified above the Old Burleigh Theatre Arcade has recently been sold. With the potential redevelopment of the Old Burleigh Theatre Arcade, a recent review of City Plan has revealed that the current provisions are not adequate enough to ensure the protection of the Old Burleigh Theatre Arcade, indeed demolition of the Old Burleigh Theatre does not require approval by, or referral to Council.

If the City was to undertake a tailored process under the Minister's Guidelines and Rules to amend the City Plan and give effect to the content of TLPI No.7 to protect the Old Burleigh Theatre Arcade, it is expected that this process would take approximately 3 – 6 months.

Although a recent DA has been approved for the site, given that the current TLPI No. 7 is likely to expire before the major amendment to City Plan can be completed, the site can be again in danger of removal. If this issue is not addressed urgently by way of the proposed TLPI No.9, the redevelopment of the Old Burleigh Theatre Arcade presents a real and tangible risk, resulting in:

- i. the demolition of this significant character building;
- ii. a significant loss to Burleigh's heritage, landmark status and streetscape presence in telling the story of Burleigh to current and future generations; and
- iii. a negative impact on the City's reputation.

(c) Not adversely affecting State interests

It is considered that the making of the proposed TLPI No.9 would not only not adversely affect State interests as it seeks to protect the identified cultural significance of the Old Burleigh Theatre Arcade, but it would advance the State's interests in preserving a building with cultural heritage significance within the meaning of the *Queensland Heritage Act 1992*.

For more information

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