



**13.3** CHANGES TO PLANNING DELEGATIONS (9 DECEMBER 2021) UNTIL THE FIRST SITTING OF THE PLANNING COMMITTEE.

**EXECUTIVE MEMBER:** BRIAN TEE, ACTING GENERAL MANAGER, DEVELOPMENT, TRANSPORT AND CITY AMENITY

**PREPARED BY:** SIMON GUTTERIDGE, ACTING MANAGER CITY DEVELOPMENT

**1. PURPOSE**

- 1.1 To delegate to the Chief Executive Officer (including the power to on delegate), the power to enable specific planning activities to be undertaken during the period of time between the last Ordinary Council meeting being 9 December 2021 until the first sitting of the Planning Committee in 2022.

**2. EXECUTIVE SUMMARY**

- 2.1 The final Council meeting for 2021 is being held on Wednesday 8 December 2021. In accordance with Council's recently adopted timetable, the first Ordinary Council meeting for 2022 is scheduled to be held on Wednesday, 2 February 2022. The first Planning Committee meeting for 2022 is scheduled to be held on Thursday, 24 February 2022.
- 2.2 During this period where there is no formal Planning Committee meetings scheduled, Council may be required to provide comments to the Minister for Planning within a specified time period and / or be required to negotiate a settlement or respond to an appeal where a permit applicant has lodged an application for review with VCAT.
- 2.3 Council may also be required to provide advice, direction and/or determine planning permit applications or amendments or extensions of time to planning permits and planning scheme amendments and applications before an advisory committee within the Fishermans Bend Urban Renewal Area (FBURA), St Kilda Road North Sub-Precinct 2 and the St Kilda Seabaths.
- 2.4 Delegation to the CEO will enable specific planning matters detailed in this report to be determined prior to first sitting of the Planning Committee. This delegation does not preclude planning matters being considered by Councillors at an Ordinary Meeting of Council.

**3. RECOMMENDATION**

That Council:

- 3.1 Delegates to the Chief Executive Officer (including the power to on delegate), effective for the period 9 December 2021 until the first sitting of the Planning Committee only, the power to:
- 3.1.1 Determine an application where:
- The application has not been refused under delegation and 16 or more objections are received.
  - The application raises strategic or substantive policy issues.



- The application involves substantive non-compliance with the Planning Scheme or Council Policy, but officers consider the application should be supported.
  - The application involves non-compliance with residential parking requirements.
  - The application involves the total demolition of a building in a heritage overlay.
  - The application involves non-compliance with Performance Measure 1 (Line of sight) of the Heritage Policy.
  - The application involves land use for accommodation in the Fishermans Bend Urban Renewal Area.
  - The application involves all development including development for the purposes of accommodation in the Fishermans Bend Urban Renewal Area.
  - The application exceeds six storeys in height in the area covered by Sub precinct 2 in Schedule 26 to the Design and Development Overlay in the Port Phillip Planning Scheme, for the St Kilda Road North precinct.
  - The application is in relation to all land use, design and structural matters, including amendments and secondary consents to the approved Seabaths Development Plan.
- 3.1.2 To provide comments to the Minister for Planning where the Minister is the Responsible Authority or Planning Authority for a statutory planning application or planning scheme amendment.
- 3.1.3 To instruct Council's Statutory Planners and/or Council's solicitors in relation to any application for review lodged with VCAT, or an application for a planning scheme amendment or an application before an Advisory Committee.
- 3.1.4 To determine planning permit applications or amendments or requests for extensions of time to planning permits within the Fishermans Bend Urban Renewal Area including applications comprising accommodation.
- 3.1.5 To determine planning permit applications that exceed six storeys in height in the area covered by Sub Precinct 2 in Schedule 26 to the Design and Development Overlay in the Port Phillip Planning Scheme, for the St Kilda Road North Precinct.
- 3.1.6 To determine all land use, design and structural matters, including amendments and secondary consents to the approved Seabaths Development Plan.
- 3.1.7 All determinations made during the period 9 December 2021 until the first sitting of the new Planning Committee will be reported to the Planning Committee in the January/February Statutory Planning Delegations Decisions Report or earlier as applicable.
- 3.2 Notes that this delegation does not preclude planning matters being considered by Council at its Ordinary Meeting of Council.
- 3.3 Prepares, and affixes the Common Seal of the Port Phillip City Council to, an Instrument of Delegation to the CEO that accords with this resolution.



#### 4. KEY POINTS/ISSUES

- 4.1 Planning matters are considered by Council's Planning Committee where:
- The application has not been refused under delegation and 16 or more objections are received.
  - The application raises strategic or substantive policy issues.
  - The application involves substantive non-compliance with the Planning Scheme or Council Policy, but officers consider the application should be supported.
  - The application involves non-compliance with residential parking requirements.
  - The application involves the total demolition of a building in a heritage overlay.
  - The application involves non-compliance with Performance Measure 1 (Line of sight) of the Heritage Policy.
  - The application involves land use for accommodation in the Fishermans Bend Urban Renewal Area.
  - The application involves all development including development for the purposes of accommodation in the Fishermans Bend Urban Renewal Area.
  - The application exceeds six storeys in height in the area covered by Sub precinct 2 in Schedule 26 to the Design and Development Overlay in the Port Phillip Planning Scheme, for the St Kilda Road North precinct.
  - The application is in relation to all land use, design and structural matters, including amendments and secondary consents to the approved Seabaths Development Plan.
  - The application requires comments to be provided to the Minister for Planning where the Minister is the Responsible Authority for a statutory planning application or a matter before an Advisory Committee.
  - The application requires the instruction of Council's Statutory Planners and/or Council's solicitors in relation to any application for review lodged with VCAT, or an application for a planning scheme amendment or an application before an Advisory Committee.
- 4.2 The final Ordinary meeting of this Council is being held on Wednesday, 8 December 2021. It is anticipated that the first Council meeting will be on Wednesday, 2 February 2022. The first Planning Committee meeting is scheduled to be held on Wednesday, 24 February 2022.
- 4.3 During this period where there is no formal Planning Committee meetings scheduled, Council may be required to provide comments to the Minister for Planning within a specified time period and / or be required to negotiate a settlement or respond to an appeal where a permit applicant has lodged an application for review with VCAT.
- 4.4 Council may also be required to provide advice, direction and/or determine planning permit applications or amendments or extensions of time to planning permits and planning scheme amendments and applications before an advisory committee within the Fishermans Bend Urban Renewal Area (FBURA), St Kilda Road North Sub-Precinct 2 and the St Kilda Seabaths.



- 4.5 Council as a statutory body receives referrals from the Minister for Planning under Amendment GC81 to the Port Phillip Planning Scheme, for applications within Fishermans Bend Urban Renewal Area (FBURA). Council has from 20 to 28 days to provide any comments.
- 4.6 Delegation to the CEO will enable specific planning matters detailed in this report to be determined prior to first sitting of the new Planning Committee. This delegation does not preclude planning matters being considered by Councillors at an Ordinary Meeting of Council.
- 4.7 One of the first priorities of the incoming Council will be to establish a Planning Committee.
- 4.8 To protect Council's interests a delegation is requested to the Chief Executive Officer (including the power to on delegate) to provide comments to the Minister and to instruct Council's Statutory Planners and / or Council's solicitors to act on Council's behalf, consistent with what has been provided previously, in particular over the December/January period.

## **5. CONSULTATION AND STAKEHOLDERS**

- 5.1 Not applicable

## **6. LEGAL AND RISK IMPLICATIONS**

- 6.1 If Council fails to provide the Minister with comments or fails to participate in negotiations for an application for review before VCAT or the Minister or an Advisory Committee, then Council may lose the opportunity to influence the decision making process.
- 6.2 If Council does not support the recommendation, all planning permit applications for review lodged with VCAT and all planning permit applications or amendments or requests for extension of time to planning permits in the Fishermans Bend Urban Renewal Area, St Kilda Road North Sub Precinct 2 and St Kilda Seabaths will be put on hold until either late November/December. This would increase Council's risk of appeals to VCAT against Council's failure to determine applications within the prescribed time and participating in matters considered by an Advisory Committee or the Minister directly.

## **7. FINANCIAL IMPACT**

- 7.1 These matters are provided for in Council's current budget.

## **8. ENVIRONMENTAL IMPACT**

- 8.1 Council's input in applications ensures appropriate conditions around sustainable development are included on any approval.

## **9. COMMUNITY IMPACT**

- 9.1 Council's input in applications ensures appropriate conditions around affordable housing, housing diversity and community infrastructure are included on any approval.
- 9.2 If the recommendation is not supported, Council's reputational risk may increase.

## **10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

- 10.1 The proposed delegations to the Chief Executive Officer (including the power to on delegate), specifically supports Direction 4 of the Council Plan – "We are growing and



keeping our character” by ensuring Council’s interests are adequately represented and protected during the period where there are no formal Planning Committee meetings scheduled.

**11. IMPLEMENTATION STRATEGY**

**11.1 TIMELINE**

11.1.1 The proposed delegations to the Chief Executive Officer (including the power to on delegate), will only be effective for the period 9 December 2021 until the first sitting of the new Planning Committee.

11.1.2 All determinations made during the period 9 December 2021 until the first sitting of the new Planning Committee, will be reported to the Planning Committee in the January/February Statutory Planning Delegations Decisions Report, or earlier as applicable.

**11.2 COMMUNICATION**

11.2.1 Not applicable

**12. OFFICER DIRECT OR INDIRECT INTEREST**

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

**ATTACHMENTS**

Nil