

CITY OF PORT PHILLIP REPORT

ORDINARY COUNCIL MEETING 29 SEPTEMBER 2009

6. REVIEW OF DELEGATIONS FROM COUNCIL TO STAFF AND TO SPECIAL COMMITTEES
- LOCATION/ADDRESS: N/A
- GENERAL MANAGER: MARK BRADY, GENERAL MANAGER CORPORATE SERVICES
- PREPARED BY: MURRAY CHICK, COORDINATOR GOVERNANCE
- FILE NO.: 18/02/13
- ATTACHMENTS:
1. INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER
 2. INSTRUMENT OF DELEGATION TO MEMBERS OF COUNCIL STAFF
 3. DELEGATION TO ST KILDA TRIANGLE PROJECT ADMINISTRATOR (CONFIDENTIAL)
 4. INSTRUMENT OF DELEGATION TO THE STATUTORY PLANNING COMMITTEE
 5. INSTRUMENT OF DELEGATION TO THE PORT MELBOURNE HOUSING PROJECT PLANNING ASSESSMENT PANEL COMMITTEE
 6. INSTRUMENT OF DELEGATION TO THE COUNCIL NEIGHBOURHOOD PROGRAMS COMMITTEE
 7. INSTRUMENT OF DELEGATION TO THE INNER MELBOURNE ACTION PLAN IMPLEMENTATION COMMITTEE
 8. INSTRUMENT OF DELEGATION TO THE PORT MELBOURNE FAMILY AND CHILDREN'S HUB COMMITTEE
 9. INSTRUMENT OF DELEGATION TO THE SOUTH MELBOURNE MARKET MANAGEMENT COMMITTEE

1. EXECUTIVE SUMMARY

- 1.1 Council has a legal obligation to review its delegations to staff and to Special committees within 12 months of a general election. This report explains the current delegations from Council to Council staff and from Council to Special Committees that are currently in force and recommends amendments or revocations where necessary to take into account organisational structure changes, amendments to legislation and changes to internal processes.

2. RECOMMENDATION

That Council:

- 2.1 Adopts and affixes the common seal to Attachments 1, 2 and 4 being:
- 2.1.1 Attachment 1 – Instrument of Delegation from Council to the Chief Executive Officer.
 - 2.1.2 Attachment 2 – Instrument of Delegation from Council to members of Council staff.
 - 2.1.3 Attachment 4 – Instrument of Delegation from Council to the Statutory Planning Committee
- 2.2 Revokes the Instrument of Delegation from Council to the Chief Executive Officer dated 19 December 2005.
- 2.3 Revokes the Instrument of Delegation from Council to members of Council staff dated 23 April 2007.
- 2.4 Revokes and declares non confidential the delegations from Council to the St Kilda Triangle Project Administrator (Confidential attachment 3 dated 25 February 2008 and 2 June 2008).
- 2.5 Appoints the Chief Executive Officer as the Project Administrator pursuant to clause 3.2 of the St Kilda Triangle Project Development Agreement, to exercise all the powers, duties, discretions and authorities of the Project Administrator.
- 2.6 Revokes the Instrument of Delegation from Council to the Statutory Planning Committee dated 23 July 1997.
- 2.7 Confirms the following Instruments of Delegations from Council to Special Committees
- 2.7.1 Port Melbourne Affordable Housing Project Planning Assessment Panel, a section 86 committee established by Council resolution on 25 August 2008 (attachment 5) noting that the Instrument of Delegation to that committee remains in force until 29 April 2010 or an earlier date if Council resolves to vary or revoke it.
 - 2.7.2 Council Neighbourhood Programs Committee, refer previous Council resolution dated 25 August 2008 (Attachment 6) – noting that a further report will be presented to Council.
 - 2.7.3 Inner Melbourne Action Plan Implementation Committee, refer previous Council resolution dated 27 February 2006 (Attachment 7)

2.7.4 Port Melbourne Family and Children's Hub Committee, refer previous Council resolution dated 23 July 2007 (Attachment 8)

2.7.5 South Melbourne Market Management Committee, refer previous Council resolution dated 26 February 2001 (Attachment 9)

3. BACKGROUND AND CONTEXT

3.1 Council is required by the Local Government Act 1989 (the Act), to conduct a review of its delegations to members of Council staff and to Special Committees within 12 months of a general election (i.e. November 2009)

4. CONSULTATION AND STAKEHOLDERS

4.1 This review of delegations has involved discussions with relevant senior members of Council staff particularly in relation to the Planning and Environment Act and the Road Management Act.

5. DISCUSSION

5.1 OPTIONS

5.1.1 Attachment 1 - Council at its meeting held on 19 December 2005 delegated to the Chief Executive Officer the power to:

1. Determine any issue;
2. Take any action; or
3. Do any act or thing

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act subject to a number of conditions and limitations. Council also granted the CEO the power to further delegate to members of Council staff any power that has been delegated to the CEO.

5.1.2 This report proposes only minor modifications to this delegation primarily to take into account changes to the Local Government Act. Please refer to Attachment 1 for tracked changes.

5.1.3 Attachment 2 - Council at its meeting held on 23 April 2007 delegated a number of powers, duties and functions to Council officers. These delegations relate to the Domestic (Feral & Nuisance) Act; Food Act; Health Act; Planning & Environment Act & Regulations; Residential Tenancies Act & Regulations; Road Management Act & Regulations and specific financial delegations to the CEO.

5.1.4 Attachment 2 details proposed tracked changes to the delegations from Council to staff. The amendments proposed largely relate to changes in legislation and job titles of Council staff. In relation to financial delegations it is recommended that the Chief Executive Officer's power to authorise purchase orders be reduced from \$2M to \$1M and the power to set fees and charges be deleted. Delegations relating to the Planning and Environment Act have been updated to include the following: inclusion of a Signing Protocol and a requirement that delegations must be exercised in accordance with that protocol; a definition of a minor amendment to a permit; and new wording and process regarding non compliance with residential

parking requirements, demolition of a building in a heritage overlay and 'line of sight' principle.

- 5.1.5 Attachment 3 includes two confidential delegations to the St Kilda Triangle Project Administrator that were agreed to by Council at the following meetings closed to the public pursuant to section 89(2) of the Act (25 February 2008 and 2 June 2008). It is recommended that the previous confidential delegations be revoked, declared non confidential and that Council appoint the Chief Executive Officer as the Project Administrator pursuant to clause 3.2 of the St Kilda Triangle Project Development Agreement to exercise all the powers, duties, discretions and authorities of the Project Administrator. The St Kilda Triangle Development Agreement requires Council to appoint a Project Administrator.
- 5.1.6 Attachment 4 is a general delegation to the Statutory Planning Committee. Specific powers of the Statutory Planning Committee and council staff planning delegations are detailed in Attachment 2 under the Planning and Environment Act. This report recommends the deletion of the requirement to forward minutes of Statutory Planning Committee to the next Ordinary Meeting of Council as this is no longer required.
- 5.1.7 This report recommends no changes are required to Instruments of Delegations to the following Special Committees
 - 5.1.7.1 Attachment 5 – Port Melbourne Affordable Housing Project Planning Assessment Panel, noting that the Instrument of Delegation to this committee remains in force until 29 April 2010 or an earlier date if Council resolves to vary or revoke it.
 - 5.1.7.2 Attachment 6 – Council Neighbourhood Programs Committee, noting that a further report will be presented to Council taking into account other methods of allocating community funding, i.e. Small Poppy Neighbourhood grants and the Community Grants Program.
 - 5.1.7.3 Attachment 7 – Inner Melbourne Action Plan Implementation Committee.
 - 5.1.7.4 Attachment 8 – Port Melbourne Family and Children's Hub Committee.
 - 5.1.7.5 Attachment 9 – South Melbourne Market Committee

5.2 ALIGNMENT TO COUNCIL PLAN

- 5.2.1 The delegations attached to this report are consistent with Council's key direction of "Engaging and governing the City" as contained in Council's 2009 – 2013 Council Plan. The Plan, under strategy 1.2.1, commits to "promote a culture of good governance".

5.3 POLICY IMPLICATIONS

- 5.3.1 Council at all times retains the power to amend or revoke any delegations previously granted to members of staff or to Special Committees.

5.4 FINANCE / RESOURCE IMPLICATIONS

- 5.4.1 There are no financial or resource implications.

5.5 LEGAL & RISK IMPLICATIONS

- 5.5.1 The Council as a legal entity can only act in the following ways: by Council resolution or through others acting on Council's behalf. Where Council acts through others legal advice recommends that this be formalised through written 'instruments of delegation' wherever practicable. The decision of a delegate or Special Committee with delegated power is legally binding on the Council as if the Council had made the decision itself. The instruments of delegation submitted in this report have been prepared in accordance with recommendations received from Council's legal advisors.
- 5.5.2 Council has a legal requirement to maintain a Register of Delegations and to have this register available for public inspection.

6. IMPLEMENTATION STRATEGY

6.1 TIMELINE

- 6.1.1 The delegations that are proposed to be amended will come into force immediately the common seal is affixed, delegations being confirmed will continue as they currently operate and the proposed dissolution of Committees will take effect immediately Council carries that resolution.
- 6.1.2 A further report will be presented to Council regarding delegations to the Council Neighbourhood Programs Committee.

6.2 COMMUNICATION

- 6.2.1 Relevant Council staff will be advised of any changes to the delegations and the delegations register will be amended accordingly. Members of Special Committees will also be advised of any changes.

7 OFFICER DIRECT OR INDIRECT INTEREST

- 7.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.