



**6.6 PLANNING DELEGATION FOR FISHERMANS BEND
MINISTERIAL CALL-INS AND VCAT MATTERS**

**EXECUTIVE MEMBER: CLAIRE FERRES MILES, GENERAL MANAGER PLACE
STRATEGY & DEVELOPMENT**

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1. PURPOSE

- 1.1 To inform Council of the decision of the Minister for Planning to call-in the live permit applications in the Fishermans Bend Urban Renewal Area, where he is the Responsible Authority;
- 1.2 To authorise the Manager City Development to instruct Council's Statutory Planners and/or Solicitors regarding:
 - 1.2.1 Any independent advisory committee appointed by the Minister for Planning to consider the called-in applications; and/or
 - 1.2.2 Any Victorian Civil and Administrative Tribunal (VCAT) application for review for the called in applications.

2. EXECUTIVE SUMMARY

- 2.1 On 22 February 2018, the Minister for Planning advised he had decided to call-in all live Ministerial permit applications in the CoPP and City of Melbourne (CoM) where he is the Responsible Authority, as the applications and proceedings individually and cumulatively raised issues of major policy.
- 2.2 The call-in affected 26 applications comprising five in the CoM and 21 in the CoPP.
- 2.3 The Minister advised the 26 applications will be referred to an Independent Advisory Committee to be determined after the recommendations of the Panel considering Amendment GC81 are known and planning controls guiding future development in Fishermans Bend have been resolved.
- 2.4 As at 21 February 2018, twelve applications for review (including one property with two applications) had been lodged with VCAT against Ministerial and Council planning permit applications in the City of Port Phillip (CoPP) Fishermans Bend Urban Renewal Area (FBURA).
- 2.5 Council's Manager City Development had delegation to instruct Council's Statutory Planners and/or Solicitors in four of these matters for the then forthcoming Practice Day Hearings, Compulsory Conferences (mediation), and Hearings (as applicable).
- 2.6 Council's Manager City Development required delegation to instruct Council's Statutory Planners and/or Solicitors in six further matters for the forthcoming Practice Day Hearings, Compulsory Conferences (mediation), and Hearings (as applicable).
- 2.7 The two other matters related to Council refusals at 161 Buckhurst Street, South Melbourne and did not require delegation.
- 2.8 Sites with existing permits are not affected by the call in.



- 2.9 One possible outcome of the review process is that one or more of the applications may be remitted back to VCAT.
- 2.10 Council needs to be able to present and negotiate on all the called-in applications.
- 2.11 It is requested and recommended that the Council authorise the Manager City Development to instruct Council's Statutory Planners and/or Solicitors regarding:
 - 2.11.1 Any independent advisory committee appointed by the Minister for Planning to consider the called-in applications; and/or
 - 2.11.2 Any Victorian Civil and Administrative Tribunal (VCAT) application for review for the called in applications.



3. RECOMMENDATION

That the Planning Committee:

3.1 Authorises the Manager City Development to instruct Council's Statutory Planners and/or Solicitors regarding:

- 3.1.1 Any Independent Advisory Committee appointed by the Minister for Planning to consider the called-in applications; and/or
- 3.1.2 Any Victorian Civil and Administrative Tribunal (VCAT) application for review for the called in applications;

for the twenty-six proposals at:

1. 261, 271-281 Ingles St, Port Melbourne.
2. 163-169 Ferrars Street, Southbank (Corso Body Works).
3. 240 - 246 Normanby Road, South Melbourne.
4. 248-250 & 252-254 Normanby Road, South Melbourne.
5. 256-258 & 260-262 Normanby Road, South Melbourne.
6. 264 - 270 Normanby Road, South Melbourne.
7. 203 - 205 Normanby Road, Southbank.
8. 207-211 & 215-217 Normanby Road, Southbank.
9. 91-95 Montague Street, South Melbourne.
10. 179-185 Normanby Road, Southbank (Laconia).
11. 272-280 Normanby Road, South Melbourne.
12. 118 Bertie Street, Port Melbourne.
13. 17 Rocklea Drive Port Melbourne.
14. 112 Salmon Street, Port Melbourne.
15. 400 - 430 City Road, Southbank.
16. 365, 371, 391 Plummer Street, Port Melbourne.
17. 2-28 Montague St, 80 Munro St, South Melbourne.
18. 187-197 Normanby Rd, Southbank (Total Tools).
19. 18-22 Salmon Street (SE Cnr. Plummer St), Port Melbourne.
20. 235-239 and 241-243 Normanby Road, South Melbourne.
21. 541 Graham Street Port Melbourne (National Tiles).

4. KEY POINTS/ISSUES

4.1 On 22 February 2018, the Minister for Planning advised he had decided to call-in all live Ministerial permit applications in the CoPP and City of Melbourne (CoM) where he is the Responsible Authority under S97B of the *Planning and Environment Act* 1987, and all proceedings from VCAT pursuant to S58 of Schedule 1 to the *Victorian*



Civil and Administrative Tribunal Act 1998 as the applications and proceedings individually and cumulatively raised issues of major policy.

- 4.2 The call-in affected 26 applications comprising five in the CoM and 21 in the CoPP (inc. 112 Salmon St Port Melbourne, called-in on 19 December 2017).
- 4.3 The Minister advised the 26 applications will be referred to an Independent Advisory Committee and determined after the recommendations of the Panel considering Amendment GC81 are known and planning controls guiding future development in Fishermans Bend have been resolved.

This likely means sometime in Q3 or Q4 of 2018.

- 4.4 The 21 call ins (and applications that were subject to a VCAT application for review) in CoPP are:
2. 261, 271-281 Ingles St (Cnr. Fennell and Bertie Sts), Port Melbourne (VCAT)
 3. 163-169 Ferrars Street, Southbank (Corso Body Works)
 4. 240 - 246 Normanby Road (Cnr. Montague St.) South Melbourne (Site 04)
 5. 248-250 & 252-254 Normanby Road, South Melbourne (Site 03) (VCAT)
 6. 256-258 & 260-262 Normanby Road, South Melbourne (Site 02) (VCAT)
 7. 264 - 270 Normanby Road, South Melbourne (Site 01) (VCAT)
 8. 203 - 205 Normanby Road, Southbank (Site 06)
 9. 207-211 & 215-217 Normanby Road, Southbank (Site 05)
 10. 91-95 Montague Street, South Melbourne
 11. 179-185 Normanby Road, Southbank (Laconia)
 12. 272-280 Normanby Road, South Melbourne (Site 00)
 13. 118 Bertie Street, Port Melbourne (VCAT)
 14. 17 Rocklea Drive Port Melbourne (VCAT)
 15. 112 Salmon Street (Cnr. Woolboard and Thackray Rd), Port Melbourne (VCAT)
 16. 400 - 430 City Road, Southbank (VCAT)
 17. 365, 371, 391 Plummer Street (NW Cnr. Plummer St) PM (VCAT)
 18. 2-28 Montague St, 80 Munro St, South Melbourne (Further information requested)
 19. 187-197 Normanby Rd, Southbank (Total Tools) (Further information requested)
 20. 18-22 Salmon Street (SE Cnr. Plummer St), Port Melbourne (VCAT) (at reporting)
 21. 235-239 and 241-243 Normanby Road, South Melbourne (Further information requested)
 22. 541 Graham Street Port Melbourne (National Tiles) (Further information requested).
- 4.5 Council has considered and provided advice to the Minister on sites 1 to 16.
- 4.6 Sites 17 to 21 are recent applications for which reports are currently being prepared for a future meeting, or are waiting on further information to enable assessment and reporting to be carried out.



- 4.7 Sites with existing permits are not affected by the call in, including two sites with current S72 amendment applications at:
 - 4.7.1 199-201 Normanby Road, Southbank (at reporting)
 - 4.7.2 171-183 Ferrars Street, South Melbourne (just received)
- 4.8 One possible outcome of the review process is that one or more of the applications may be remitted back to VCAT.
- 4.9 Council needs to be able to present and negotiate on all the called-in applications for:
 - 4.9.1 Any independent advisory committee appointed by the Minister for Planning to consider the applications; and/or
 - 4.9.2 Any Victorian Civil and Administrative Tribunal (VCAT) application for review for any of the matters.
- 4.10 It is requested and recommended that the Council authorise the Manager City Development to instruct Council's Statutory Planners and/or Solicitors regarding:
 - 4.10.1 Any independent advisory committee appointed by the Minister for Planning to consider the called-in applications; and/or
 - 4.10.2 Any Victorian Civil and Administrative Tribunal (VCAT) application for review for the called in applications.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 This proposal for authorisation has been made following consultation with Council's Solicitors, the Manager City Development and Statutory Planning Coordinator Gateway Ward.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 Authorisation is requested to ensure Council can negotiate a suitable outcome for planning applications in the FBURA in accordance with the intentions of Council and the Minister.

7. FINANCIAL IMPACT

- 7.1 Attendance at the Independent Advisory Committee and/or the Tribunal requires expenditure for legal representation and/or expert witnesses as applicable.

8. ENVIRONMENTAL IMPACT

- 8.1 Not applicable.

9. COMMUNITY IMPACT

- 9.1 Attendance and representation at the Independent Advisory Committee and/or the Tribunal ensures Council's views on the applications are heard, and Council has an opportunity to advocate and negotiate to achieve an acceptable outcome.



10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 As above, attendance and representation at the Independent Advisory Committee and/or the Tribunal ensures Council's views on the applications are heard, and Council has an opportunity to advocate and negotiate to achieve an acceptable outcome.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

The composition, date and duration of the Independent Advisory Committee to consider the 26 called in applications has not been announced. It is anticipated however that the Independent Advisory Committee will not sit until the new financial year.

- 11.2 The remitting of any of the applications back to VCAT is unknown.

- 11.3 Delegation to the Manager City Development to instruct Council's Statutory Planners and/or Solicitors regarding:

11.3.1 Any Independent Advisory Committee appointed by the Minister for Planning to consider the called-in applications; and/or

11.3.2 Any Victorian Civil and Administrative Tribunal (VCAT) application for review for the called in applications;

Is necessary to allow preparation and timely response to any announcement of dates for these matters.

11.4 COMMUNICATION

11.4.1 FBURA planning permit applications are typically exempt from the Notice, decision and review provisions of the Act.

11.4.2 Officers communicate FBURA applications and outcomes to the community via the regular (bi-monthly) Fishermans Bend Community Forum meetings and Council's website.

11.4.3 Officers communicate FBURA applications and outcomes to internal staff via the regular monthly Fishermans Bend Major Projects Group meetings and internal briefings.

12. OFFICER DIRECT OR INDIRECT INTEREST

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

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ATTACHMENTS Nil