

ORDINARY MEETING OF COUNCIL 5 DECEMBER 2018



12.1 CHANGE TO PLANNING DELEGATIONS (6 DEC 2018 - 5 FEB 2019)

EXECUTIVE MEMBER: LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT

PREPARED BY: GEORGE BORG, MANAGER CITY DEVELOPMENT

1. PURPOSE

- 1.1 To delegate to the Manager City Development powers to enable specific activities to be undertaken during the period of time between the last Council meeting of 2018 and the first Council meeting of 2019.

2. EXECUTIVE SUMMARY

- 2.1 The final Council meeting for 2018 is being held on Wednesday 5 December 2018. In accordance with Council's recently adopted timetable, the first Ordinary Council meeting for 2019 is scheduled to be held on Wednesday 6 February 2019.
- 2.2 During this period where there are no formal Council meetings scheduled, Council may be required to provide comments to the Minister 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. Council may also be required to make a decision in relation to planning permit applications or amendments or extensions of time to planning permits within the Fishermans Bend Urban Renewal Area (FBURA), St Kilda Road North Sub-Precinct 2 and in relation to the St Kilda Seabaths.

3. RECOMMENDATION

That Council:

- 3.1 Delegates to the Manager City Development the power effective for the period 6 December 2018 to 5 February 2019 only:
 - 3.1.1 To provide comments to the Minister for Planning where the Minister is the Responsible Authority for a statutory planning application.
 - 3.1.2 To instruct Council's Statutory Planners and/or Council's solicitors in relation to any application for review lodged with VCAT.
 - 3.1.3 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 relating to accommodation.
 - 3.1.4 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.



- 3.1.5 In relation to the St Kilda Seabaths to determine all land use, design and structural matters, including amendments and secondary consents to the approved Seabaths Development Plan.
- 3.2 All determinations made during the period 6 December 2018 to 5 February 2019, will be reported to Council in the December/January Planning Delegations Council Report.

4. KEY POINTS/ISSUES

- 4.1 The suite of new planning controls introduced by the Minister for Planning under Amendment GC81 to the Port Phillip Planning Scheme, relevant to FBURA included Council becoming a 'Recommending Referral Authority'. This means that planning permit applications received by the Minister in FBURA relevant to Port Phillip will be formally referred to Council and Council has 28 days to provide any comments. This process is very similar to the previous informal arrangement Council had with the Minister except Council now has formal status under the relevant legislation and appeal rights to VCAT for Ministerial applications.
- 4.2 In this situation, standard practice will continue, i.e. that officers present a report to the Planning Committee, the Committee agrees on a position and authorises the Manager City Development to act on the Committee's resolution.
- 4.3 However, a referral from the Minister may be received at a time where the 28 day period for response from Council will expire prior to the next meeting of Council on 6 February 2018. Therefore, to protect Council's interests a delegation is requested to the Manager City Development to provide comments to the Minister and to instruct Council's Statutory Planners and / or Council's solicitors to act on Council's behalf.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 N/A

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, 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 February 2019. This would increase Council's risk of appeals to VCAT against Council's failure to determine applications within the prescribed time.

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 Council's input in applications ensures appropriate conditions around employment and dwelling supply (in line with the strategic framework) are included on any approval.
- 9.3 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 Manager City Development 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 meetings of Council scheduled.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 The proposed delegations to the Manager City Development will only be effective for the period 6 December 2018 to 5 February 2019.
- 11.1.2 All determinations made during the period 6 December 2018 to 5 February 2019, will be reported to Council in the December/January Planning Delegations Council Report.

11.2 COMMUNICATION

- 11.2.1 N/A

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