

## 1.6 REVIEW OF DELEGATIONS TO COUNCIL STAFF (NA)

Responsible Director: Peter Panagakos

### **RECOMMENDATION**

*That Council:*

1. *Makes the delegations and Authorisations to the Council Staff, as detailed in this report.*
2. *Notes that the Subdivision Act 1988 and supporting regulations are no longer required to be delegated by Council as they have been delegated by the CEO and the previous delegations for the Subdivision Act 1988 and supporting regulations are rescinded.*

### **INTRODUCTION**

This report is submitted to provide for some updates to the delegations and authorisations from Council to staff involved in implementing, determining and enforcing the *Planning and Environment Act 1987*. The *Subdivision Act 1988* and supporting regulations that were previously delegated by Council to Officers are no longer required as these now form part of the sub delegations by the CEO and accordingly these previous delegations are rescinded.

This report makes recommendations concerning the primary delegations from the Council to staff within the City Development Division.

### **KEY CONSIDERATIONS/ISSUES**

Council delegates various responsibilities and powers to Statutory and Strategic Planning under the *Planning and Environment Act 1987*, *Planning and Environment Regulations 2015*, and *Planning and Environment (Fees) Regulations 2016*.

The current delegations were last reviewed in September 2017. The current review has focussed on:

- Update to officer positions and titles
- Alignment with changes in legislation as guided by Maddocks Delegations and Authorisations

Changes generally include:

- Modifications to the Delegations (Attachment 1) including:
  - Updates to position titles;
  - Removal of duplication;
  - Clarification of conditions of delegations;
  - Rescinding the previous delegations under the *Subdivision Act 1988* and supporting regulations as these are now sub delegated to Officers by the CEO.

- Updates to authorisations relating to the enforcement matters under the *Planning and Environment Act 1987*. (Attachment 2)

Council previously determined to include delegations to the Director City Development to allow Council to comply with VCAT directions to mediate through a Compulsory Conference or to consent to an order being issued by agreement of all parties. The intent was always to avoid the need to request Special Council Meetings to consider matters for staff to reach agreement on for smaller matters of no consequence.

It is also proposed to add some additional rigour and to further clarify the use of delegation as they relate VCAT matters. Officers would not be able to negotiate at VCAT where:

- Substantial changes to plans have been made where further public notice should be undertaken;
- Amended plans have not been substituted formally;
- Where it is proposed to change a condition imposed by Council that is material to the decision made;
- Where an application was called in by a Councillor and the Council did not support the Officer's recommendation.

There are some limited circumstances where it is considered appropriate for delegated officers to continue to negotiate outcomes where:

- A request to change a condition which is not material to the original decision;
- An amendment to a proposal to resolve a specific issue raised in a ground of refusal;
- A request to consider a different design solution which meets the same intent of one specified by a condition;
- A request to accommodate an appropriate resolution of an issue raised by an objector.

It will remain that where plans have been formally substituted and time permits these would be referred to a formal Council Meeting for Council's consideration. Where these plans do not address the issues raised in Council's original decision this decision will stand and be Council's position moving to a formal hearing. Officers will not notify Councillors where Council's decision is not significantly changed.

If time does not permit to present plans to a formal Council Meeting then some level of discussion and majority support will be sought at a formal Strategy or Briefing Meeting. In rarer circumstances, where the Tribunal accepts revised plans very late in the process Officers would advise Councillors individually and seek majority support for the Council position.

### **CONCLUSION**

It is recommended that the delegations and authorisations to the Council staff, as recommended in this report, be made by the Council.