



**14.7** ESTABLISH THE PLANNING DELEGATED COMMITTEE  
UNDER THE LOCAL GOVERNMENT ACT 2020

**EXECUTIVE MEMBER:** KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND  
ORGANISATIONAL CAPABILITY

**PREPARED BY:** KIRSTY PEARCE, HEAD OF GOVERNANCE

**1. PURPOSE**

- 1.1 To re-establish the Statutory Planning Committee (the Committee) as a Delegated Committee from 1 September 2020, to bring its governance structure in line with the requirements of section 63 of the *Local Government Act 2020* (the Act).

**2. EXECUTIVE SUMMARY**

- 2.1 On 1 May 2020, section 86 of the *Local Government Act 1989* was repealed removing the provision Special Committees of the Council and section 64 of the *Local Government Act 2020* came into effect allowing councils to resolve to establish a Delegated Committee.
- 2.2 Council established the Statutory Planning Committee on 25 June 1997 for the purpose to exercise Council's powers, duties and functions under the Planning and Environment Act 1987 in accordance with relevant policies and guidelines of the Council. The Statutory Planning Committee comprises all Councillors and meets monthly. It is charged with the authority to deal with statutory planning matters only. The delegation to the Committee is reviewed each Council term.
- 2.3 Attachment 1 is a general delegation of Council's powers, duties and functions under the Planning and Environment Act 1987 to the Statutory Planning Committee. No changes are recommended to the delegation to the Statutory Planning Committee except for the administrative changes required to bring the document into line with the requirements of the Act.

**3. RECOMMENDATION**

That Council:

- 3.1 Approves the establishment of the City of Port Phillip Statutory Planning Committee (the Planning Committee) as a Delegated Committee pursuant to section 63 of the *Local Government Act 2020*.
- 3.2 Delegates to the members of the Planning Committee the powers, duties and functions set out in the Instrument of Delegation (Attachment 1).
- 3.3 Affixes the Common Seal of the Port Phillip City Council to the Instrument of Delegation, which:
- 3.3.1 comes into force on 1 September 2020; and
- 3.3.2 remains in force until Council determines to vary or revoke it.



#### **4. KEY POINTS/ISSUES**

- 4.1 Council as a legal entity can only act by Council resolution or through others acting on Council's behalf. Where Council acts through others this must be formalised through written instruments of delegation.
- 4.2 A Delegated Committee is a committee formed by a council to which the council delegates "any power, duty or function of a Council under this Act or any other Act..." (s 11(1) of the Act). In effect, a delegated committee may exercise a power or undertake a duty or function as if it is the council. Under the Act, the formation of, appointment to, and administration of delegated committees is highly controlled given their ability to exercise statutory functions and powers on behalf of the council.
- 4.3 Council established the Statutory Planning Committee on 25 June 1997 to determine statutory planning matters under the Planning and Environment Act 1987. Planning Committee meetings are conducted on the Fourth Wednesday of each month at 6.30pm at the St Kilda Town Hall (though currently meeting online under the Omnibus Act 2020). The delegations to the Planning Committee are reviewed at least once each Council term.
- 4.4 The Instrument of Delegation is based on models provided by Maddocks Lawyers and are used by most Victorian Councils. The proposed delegation contains exceptions, conditions and limitations which must be adhered to by the delegate or the Committee.
- 4.5 The Planning Committee has no power to make a decision on a planning scheme amendment matter.
- 4.6 Meeting Procedures
  - 4.6.1 A delegated committee exercises the powers, duties or functions of council. Therefore, these committees are subject to the same governance rules as council (s 60). A resolution of a delegated committee holds the same weight as a resolution of council (provided it falls within the committees delegated powers).
  - 4.6.2 At its meeting of 1 July 2020, Council endorsed for community consultation the draft Governance Rules. A report will be presented to the Council Meeting of 19 August 2020 recommending that Council formally adopt the Governance Rules in final form.

#### **5. CONSULTATION AND STAKEHOLDERS**

- 5.1 The attached instrument of delegation has been prepared in accordance with recommendations received from Council's legal advisors.

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

- 6.1 To ensure compliance with the requirements of the Act, Council must re-establish the Planning Committee under section 63 of the Act by 1 September 2020.
- 6.2 The Instrument of Delegation is structured in accordance with the requirements of the Act.

#### **7. FINANCIAL IMPACT**

- 7.1 Funding for governance compliance work required under the Local Government Act 2020 has been provided for in existing budgets.



**8. ENVIRONMENTAL IMPACT**

- 8.1 There is no direct environmental impact resulting from Council establishing a planning committee.

**9. COMMUNITY IMPACT**

- 9.1 The establishing of a planning committee aligns with the key objectives of the Governance Rules relating to the community, which are to:
- 9.1.1 Ensure proceedings and decision making by Council is transparent and understandable to all people who wish to participate in and observe meetings of Council.
  - 9.1.2 Ensure participation in proceedings is accessible and balanced with Council's primary decision-making role.
  - 9.1.3 Ensure proceedings and decision making is conducted in accordance to the principles of procedural fairness and good governance.
  - 9.1.4 Ensure proceedings and decision making is made in a safe and respectful environment and provides an equal opportunity for all to participate, with respect being accorded to the expression of differing views.

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

- 10.1 This report supports Direction 6 of the Council Plan (Our Commitment to You), by providing a transparent and good governance approach to decision making and aids in achieving a financially sustainable, high performing, well governed organisation that puts the community first.

**11. IMPLEMENTATION STRATEGY**

**11.1 TIMELINE**

- 11.1.1 The delegations proposed in this report will come into force immediately when the common seal is affixed.

**11.2 COMMUNICATION**

- 11.2.1 Council must keep a register of its delegations and this must be publicly available for inspection. The register will be updated according to the resolutions carried by Council and will be made available on Council's website.

**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.

**TRIM FILE NO:** F20/1

**ATTACHMENTS** 1. Proposed Delegation to Planning Committee