



Urban Planning Delegation Protocols

Policy number:	3972	Endorsed by:	City Development Delegated Committee
Date endorsed:	24 October 2023	Review date:	5 years from adoption
Policy owner:	Manager City Development	Policy Author:	Manager City Development
Policy Status:	Adopted	Policy type:	Council

REVIEW RECORD

Date	Version	Revision Description
26 February 2013	1	Initial Policy
24 October 2023	2	Revision

1 General

The following protocols have been developed to ensure that Council officers utilise authority available through the 'Instrument of Delegation' in a manner that is consistent with Council's delegation of such powers. The protocols set down must be followed by all Council officers.

The protocols have been developed in accordance with the Department of Transport and Planning's (DTP) 'making planning decisions in local government' framework. The protocols have been developed 'by exception', with all matters delegated unless otherwise specified in these protocols.

Council officers will generally have freedom to carry out duties and functions required to administer the Acts and Regulations listed within the Instrument of Delegation. The advertising of applications, issuing of documents and maintaining appropriate records are examples of duties and functions required to be undertaken.

These delegation protocols are supported by specific planning officer delegations which shall be maintained by the Manager responsible for Statutory Planning at an operational level. The specific planning officer delegations shall document the staff level (i.e. Manager, Coordinator, Senior Planner, etc...) of delegation based on the type of application (i.e. single dwelling, multi-unit, commercial, etc...).

Protocols for the use of delegated authority will be reviewed as required by legislation or as necessary and reported to Council.

Officers may use delegated powers to carry out all functions required to ensure the efficient processing of planning permit applications, including but not limited to:

- Requesting further information pursuant to Section 54 of the *Planning and Environment Act 1987* (the Act);
- Public notification of applications;
- Referring applications to referral authorities as specified in the Act or the Maribyrnong Planning Scheme;
- Determining planning applications which are not specifically stated in this protocol;
- Endorsement of plans and other relevant documentation once a permit has been issued; and
- Enforcement of planning permits.

2 Specific Delegation Parameters

2.1 Number of Objectors

Planning applications which receive more than 10 objections each from different properties will not be considered under delegation (excluding recommendations for refusal) and must be referred to the City Development Delegated Committee or Council for determination.

Pro-forma objections¹ which are submitted individually shall be counted as individual objections. A petition which is signed by multiple persons shall be considered one objection.

2.2 Buildings exceeding four storeys in a residential zone

Any application where a building exceeds four storeys in a residential zone (including a mixed use zone) will not be considered under delegation and must be referred to the City Development Delegated Committee or Council for determination.

2.3 Significant Planning Applications

Matters of a significant nature will not be considered under delegation. Applications will be categorised as 'significant' if one or more of the following applies:

- Any building exceeding an estimated development value of \$10 million; and/or
- Any application for a development with an overall height in excess of those specified in any adopted structure plan or any applicable overlays which specify a preferred height.

The above applications will be referred to the City Development Delegated Committee or Council for determination.

2.4 Where the Minister for Planning is Responsible Authority

Any application where the Minister for Planning is the Responsible Authority will be referred to the City Development Delegated Committee or Council for determination, except if;

- In the opinion of the Manager responsible for Statutory Planning the matter is minor in nature and does not warrant consideration by the City Development Delegated Committee or Council; and/or
- Timeframes imposed by the Minister or Department would not allow a report to be prepared and endorsed prior to comments being required.

NOTE: In such instances officers will inform Councillors of comments provided in the weekly Councillor Bulletin and/or will seek retrospective endorsement of comments at the next available City Development Delegated Committee or Council meeting.

2.5 Councillor 'Call in' of Applications

Where at least two Councillors request any planning application be referred to the City Development Delegated Committee that matter shall not be determined under Delegation and shall be referred to the Committee for consideration. This request can be made at any time prior to the decision being made, but should be made as early as possible and without delay.

The request must be made in writing to the Chief Executive Officer and include details of the request including the reasons for calling in the application and be signed by a minimum of two Councillors.

2.6 Refusal of Planning Permit Applications

Council officers may refuse any planning application at the direction of the Coordinator(s) or Manager responsible for Statutory Planning.

¹ An objection which has pre-fill text but which has an individual name, address, e-mail address and/or phone number.

2.7 Extension of Time Requests

Council officers have delegation to approve or refuse extension of times request made pursuant to section 69 of the Act. No more than three consecutive extension of times shall be approved or where there has been a change in policy/zoning, unless otherwise agreed by the Manager responsible for Statutory Planning.

2.8 Mediation and Consent Orders under a VCAT Proceeding

Council officers have delegation to have a matter settled via a mediation or consent order during the course of a VCAT proceeding made under the relevant sections of the Act where all parties to the appeal are in agreement. This includes any matter decided by the City Development Delegated Committee and/or Council.

3 Other Matters

3.1 Planning Forums

As part of Council's meeting cycle, planning forums may be arranged to allow objectors, applicants and any other relevant stakeholder an opportunity to express their views to Councillors and Council officers in person. Such a process is not a mandatory requirement under the Act.

Planning forums are chaired by a Council officer and are not a decision making forum. Planning forums will, in general, be held for applications where there are more than 10 objections or a significant application as defined under this protocol.

Planning forums will not generally be held where an application is unacceptable and is recommended for refusal. Planning forums may not be held if, in the opinion of the Manager responsible for Statutory Planning, the forum is unlikely to result in productive discussions.

3.2 Notification

Council undertakes comprehensive advertising for applications in accordance with its obligations under the Act. The aim is to ensure openness and accountability throughout the planning application assessment process, and includes notice given to (but not limited to):

- Owners and occupiers of adjoining land
- A municipal council where the application may affect land within its district
- Any person whom the planning scheme requires it to give notice
- Any person where the grant of a permit may cause detriment to them.

Notice of applications shall be by all or any of the following methods:

- Placing a sign\ on the land and maintaining the sign in good order for 14 days
- Publishing a notice in local newspaper/s
- Publishing a notice on Council's website
- By giving written notice by mail (post or electronic); or
- By any other way considered appropriate

Council officers at times may not give notice, however this requires the approval of the Manager or Coordinators responsible for Statutory Planning.

3.3 Councillors Weekly Status Report and Registers

Councillors will be provided with a weekly status report which will provide the following details with respect to planning applications:

- List of all new applications for permit by ward
- List of all applications which have attracted objections (by ward) and are ready for a decision under delegation
- List of consultative meetings and planning forums to be held
- List of all delegated decisions, including the number of prescribed days taken to make the decision.

Councillors should review this list and inform the Chief Executive Officer without delay if they intend on calling in an application.

A register is to be kept of all delegated decisions.

3.4 Amended Plans and Permits

There are some key mechanisms available for the amendment of a planning permit including endorsed plans and any other endorsed documentation. The available mechanisms include:

- Section 72 and 73 of the Act
- Section 87 of the Act
- Informal secondary consent provision.

Council officers will consider any amended plans or amended permit request against the relevant sections of the Act, the Maribyrnong Planning Scheme and case law principles.

Council officers consideration of such requests will be subject to a delegate report reviewed by the Manager or Coordinator(s) responsible for Statutory Planning prior to a decision being made on the request.

4 Review of Delegation Protocols

This Framework will be reviewed in five years from the date of endorsement, as legislation requires or Council determines a need has arisen.