



CITY OF VINCENT

AGENDA

Special Council Meeting

15 May 2018

Time: 6pm
Location: Administration and Civic Centre
244 Vincent Street, Leederville

Len Kosova
Chief Executive Officer

Order Of Business

| | | |
|-----|--|----|
| 1 | Declaration of Opening / Acknowledgement of Country..... | 5 |
| 2 | Apologies / Members on Leave of Absence | 5 |
| 3 | Public Question Time and Receiving of Public Statements | 5 |
| 4 | Declaration of Interest | 5 |
| 5 | Development Services | 6 |
| 5.1 | Delegated Authority Register - Local Planning Scheme No. 2 [ABSOLUTE MAJORITY DECISION REQUIRED]..... | 6 |
| 6 | Chief Executive Officer | 38 |
| 6.1 | Appointment of a CEO Performance Review Consultant | 38 |
| 8 | Closure | 41 |

1 DECLARATION OF OPENING / ACKNOWLEDGEMENT OF COUNTRY

“The City of Vincent would like to acknowledge the Traditional Owners of the land, the Whadjuk people of the Noongar nation and pay our respects to Elders past, present and emerging”

2 APOLOGIES / MEMBERS ON LEAVE OF ABSENCE

Nil

3 PUBLIC QUESTION TIME AND RECEIVING OF PUBLIC STATEMENTS

4 DECLARATION OF INTEREST

5 DEVELOPMENT SERVICES

5.1 DELEGATED AUTHORITY REGISTER - LOCAL PLANNING SCHEME NO. 2

TRIM Ref: D18/57510

Author: Jordan Korovesi, Coordinator Policy & Place

Authoriser: John Corbellini, Director Development Services

- Attachments:
1. Attachment 1 - Existing Delegated Authority Register 2017-2018 (Planning Delegations) [↓](#) 
 2. Attachment 2 - Summary of Existing and Proposed Delegated Functions [↓](#) 
 3. Attachment 3 - Planning Delegations under Local Planning Scheme 2 (Final) [↓](#) 

RECOMMENDATION:

That Council:

1. **RESCINDS** the existing delegations 6.1 to 6.13 as shown in Attachment 1; and
2. **DELEGATES BY ABSOLUTE MAJORITY** the local government functions listed in Attachment
- 3, pursuant to s. 5.24 of the *Local Government Act 1995* and cl. 82 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

PURPOSE OF REPORT:

To consider amendments to the City's Delegated Authority Register required as a result of the revocation of the City's Town Planning Scheme No. 1 and the adoption of the City's Local Planning Scheme No. 2 (the Scheme).

BACKGROUND:

At its meeting on 27 June 2017, Council adopted the 2017/18 Delegated Authority Register, which included 13 planning delegations under Part 6 of the Delegated Authority Register as shown in **Attachment 1**. These delegations relate to the City's planning powers as set out under the *Planning and Development Act 2005*, *Metropolitan Region Scheme* and City of Vincent Town Planning Scheme No. 1 (TPS1). On 4 April 2018, the Acting Minister for Planning endorsed the new City of Vincent Local Planning Scheme No. 2 (LPS2), as a replacement to TPS1. LPS2 is scheduled to be gazetted and become operational on 16 May 2018 and TPS1 is scheduled to be revoked on the same day. The revocation of TPS1 will render the City's current planning delegations ineffective and so it is necessary to amend the City's delegations such that they apply to LPS2.

DETAILS:

Administration has undertaken a comprehensive review of the current delegations set out under Part 6 of the 2017/18 Delegated Authority Register. The results of this review, following consultation with Council Members, are set out in the summary of existing and recommended delegated functions included in **Attachment 2**. In addition the Delegated Authority Register has been amended to rationalise duplicate functions, remove obsolete functions, and clarify the remaining functions. The amended Register now contains only two separate functions delegated from Council to the Chief Executive Officer (CEO), one for compliance related matters provided for under the *Planning and Development Act 2005* and the other for the ability to determine applications for development approval under Local Planning Scheme No. 2 and the *Metropolitan Region Scheme*.

The intent of the amendment is to broadly maintain the existing level of delegation to the CEO. All of the changes proposed to the level of delegation are set out in **Attachment 2**. Five major changes to the level of delegation have been recommended, as follows:

1. Car Parking Shortfalls – Currently Council considers any application that proposes a car parking shortfall of more than five bays under Table 1 of the City’s Policy No. 7.7.1: Non-Residential Parking Requirements. This requirement is proposed to be retained and clarified given the recent amendment to that Policy. These recent amendments have also changed the way cash-in-lieu requirements are assessed. Given this, it is recommended that this delegation be further amended to require Council to approve the waiving of cash-in-lieu or reciprocal parking arrangement where the development does not meet the applicable car parking minimum set under Table 1 of the Policy No. 7.7.1 – Non-Residential Parking Requirements. This will still delegate the CEO the power to approve such applications provided cash-in-lieu or a reciprocal parking agreement is provided for the entire shortfall in parking under Table 1, up to a maximum of 5.0 bays.
2. Variations to precinct policies - Currently a development that varies any of the standards applicable in a precinct policy including the City’s various design guideline area policies and Policy No. 7.5.15 Character Retention and Heritage Areas requires the approval of Council. This includes minor variations, such as front fence infill for metre boxes and or setback protrusions. Rather than require all variations to be presented to Council it is considered a better approach to require that all development applications lodged within a design guideline, heritage area or character retention area be advertised for comment to that entire area and that if more than five objections are received the matter be presented to Council for determination. Given the performance based approach now being taken in the Character Retention and Heritage Areas Policy and Built Form Policy, it is recommended that determination of minor variations occur under delegated authority. This will ensure that only applications of community interest are presented to Council and ensures a consistent approach across all applications.
3. Refusal of applications – There is currently delegations for a number of application types to be approved under delegated authority but not refused. There is considered to be adequate guidance under LPS2 and the City’s policies to allow the CEO to also refuse these types of applications and it is recommended that the delegations be extended to allow this to occur.
4. “SA” Uses with one objection – Currently Council is required to determine any application that received more than five objections, except where the use is listed as an “SA” use under TPS1, where one objection triggers the requirement for an application to be presented to Council. The terminology for “SA” uses will change to “A” uses under LPS2. There is not considered to be any significant difference between “A” uses compared to other discretionary uses such as “AA” or “D” uses. The “more than five” objections trigger is considered to appropriately capture those applications that are of community concern and warrant formal consideration by Council. Given the above it is recommended that “A” uses also be presented to Council where more than five (5) objections are received.
5. Amendments to Council decisions – Currently Administration’s practice is to present to Council all applications that propose to amend a decision of Council. This is not specifically stated in the current delegations and so it is recommended that the delegations be amended to clarify this requirement. It is also recommended that the CEO be granted delegation to determine applications seeking to extend the period within which a development previously approved by Council must be substantially commenced.

The amended Register also proposes removal of the ‘Category Matrix’ and replaces this with a list of application types that must be presented to Council, which include all of those currently listed in the ‘Category Matrix’ as requiring the approval of Council. The list contains all uses previously classified as Category 1 or 2, as well as some unlisted uses from Town Planning Scheme No. 1 which are now defined under Local Planning Scheme No. 2 and are recommended to also require the approval of Council, as follows:

- Club premises
- Correctional Institution
- Exhibition Centre
- Hospital
- Nightclub
- Residential Building
- Small bar

A list of all changes to the Delegated Authority Register is included as **Attachment 2** and the proposed new planning delegations are included as **Attachment 3**.

CONSULTATION/ADVERTISING:

No advertising or public comment is required under the relevant legislation.

LEGAL/POLICY:

- *Local Government Act 1995;*
- *State Administrative Tribunal Act 2004;*
- *Planning and Development Act 2005;*
- *Metropolitan Region Scheme;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;* and
- Local Planning Scheme No. 2.

Section 5.46(2) of the Act requires Council to carry out a review of its delegations at least once every financial year.

RISK MANAGEMENT IMPLICATIONS:

Medium: Delegating the powers of a local government introduces a risk that those powers may be used in a manner that is contrary to Council's view. This risk is mitigated by imposed conditions on delegations, guiding policies, appropriate training which defines clear authorities, and accountabilities for City officers. The risk is also mitigated by the requirement to record and report decisions made under delegated authority.

STRATEGIC IMPLICATIONS:

This item addresses the City's Strategic Plan 2013-2023:

- “4.1 Provide good strategic decision-making, governance, leadership and professional management*
- 4.1.2 Manage the organisation in a responsible, efficient and accountable manner”.*

SUSTAINABILITY IMPLICATIONS:

This item will have negligible impact on the City's sustainability targets.

FINANCIAL/BUDGET IMPLICATIONS:

The cost of implementing this proposal will be met by the City's existing operational budget.

COMMENTS:

The amended Delegated Authority Register removes significant confusion from the operation of the existing delegations. There is no longer any overlap or contradictions between delegations, the correct clauses and legislation are referenced, obsolete functions have been removed, and the remaining functions have been worded in a clear manner that can be understood and implemented consistently.

The general level of delegation has been maintained, with the exception of those types of applications set out in the Detail section above, which are deemed more appropriate to be determined by the Council or the CEO. It is considered that these changes will ensure applications that impact on, or are of interest to the community are considered by Council as part of the Council Meeting process and that minor applications can be determined under delegated authority.

It is recommended that Council adopt the proposed new planning delegations as included as **Attachment 3**.

PART 6 TOWN PLANNING**No: 6.1 Departure from the Requirement and Provisions of the Scheme**

| | |
|--|--|
| Function to be performed | No person shall depart from or permit or suffer any departure from the requirements and provisions of a Scheme enforceable by the City, nor shall any person use or suffer or permit the use of any land or building or undertake or suffer or permit the undertaking of any development within the Scheme Area: (a) otherwise than in accordance with the provisions of the applicable Scheme; (b) unless all approvals required by the applicable Scheme have been granted and issued; (c) unless all conditions imposed upon the grant and issue of any approval required by the applicable Scheme have been and continue to be complied with; (d) unless all standards laid down and all requirements prescribed by the applicable Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that part have been and continue to be complied with. |
| Legislative power or duty delegated | <i>Planning and Development Act 2005 - Part 13</i> <i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2, Part 10, Clause 82, 77</i> <i>City of Vincent Town Planning Scheme No. 1 - Clauses 34, 38</i> <i>City of Perth District Planning Scheme No 2 – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</i> |
| Delegation to | Chief Executive Officer |
| Delegation | The Officer Chief Executive is delegated the power to take action for departure from the requirements and provisions of the <i>City of Vincent Town Planning Scheme No. 1</i> , <i>City of Perth District Planning Scheme No 2</i> , including the <i>Planning and Development Act 2005</i> , and <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> . Note - <i>City of Perth District Planning Scheme No 2 is applicable in the context of the former East Perth Redevelopment Area</i> |
| Conditions and Reporting Requirements | Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by Part 13 of the Act. Copies of all comments or recommendations made are to be retained on the appropriate file or record. |

No: 6.2 Development Control, Enforcement and Legal Action (Including Appeals and SAT Matters)

| | |
|-------------------------------------|---|
| Function to be performed | <ul style="list-style-type: none"> • Exercise discretion and to refuse or approve and apply conditions to planning applications under the <i>City of Vincent Town Planning Scheme No. 1</i> and associated policies, <i>City of Perth District Planning Scheme No 2</i> and associated policies, Planning and Development (Local Planning Scheme) Regulations 2015 and <i>Residential Design Codes</i>; • To authorise persons to enter premises under the <i>City of Vincent District Planning Scheme No. 1</i> and <i>City of Perth District Planning Scheme No 2</i>; • Implement enforcement and legal proceeding matters under the <i>Planning and Development Act 2005, Part 13</i>; • Implement matters delegated to the City of Vincent under the <i>Planning and Development Act 2005</i>. • Exercise discretion and to form opinions and to issue, withdraw or amend Notices and Requisitions pursuant to Part 13 of the Planning and Development Act 2005 and the provisions the City of Vincent Town Planning Scheme No. 1 and <i>City of Perth District Planning Scheme No 2</i>. • Exercise discretion and to respond to appeals lodged with the State Administrative Tribunal for; <ol style="list-style-type: none"> 1. the determination of planning application appeals under Part 14 of the Planning and Development Act 2005, and the <i>City of Vincent Town Planning Scheme No. 1</i>, <i>City of Perth District Planning Scheme No 2</i> and associated policies, <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>; and 2. the determination of 'without prejudice' conditions. • Take action for the administration and implementation of the <i>City of Vincent Town Planning Scheme No. 1</i> <p>Note - City of Perth District Planning Scheme No 2 is applicable in the context of the former East Perth Redevelopment Area.</p> |
| Legislative power or duty delegated | <p><i>Planning and Development Act 2005 - Part 13 and 14</i> <i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2, Part 10, Clause 82, 77</i> <i>City of Vincent Town Planning Scheme No. 1 - Clauses 34, 38</i> <i>City of Perth District Planning Scheme No 2 – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</i></p> |
| Delegation to | Chief Executive Officer |
| Delegation | <p>The Chief Executive Officer is delegated the power to;</p> <ul style="list-style-type: none"> • Exercise discretion and to approve and apply conditions to planning applications under the <i>City of Vincent Town Planning Scheme No. 1</i> and associated policies, <i>City of Perth District Planning Scheme No 2</i> and associated policies, Planning and Development (Local Planning Scheme) Regulations 2015 and <i>Residential Design Codes</i>; a) To authorise person to enter premises under the <i>City of Vincent District Planning Scheme No. 1</i> and <i>City of Perth District Planning Scheme No 2</i>; b) Implement enforcement and legal proceeding matters under the <i>Planning and Development Act 2005, Part 13</i>; c) Implement matters delegated to the City of Vincent under the <i>Planning and Development Act 2005</i>. d) Exercise discretion and to form opinions and to issue, withdraw or amend Notices and Requisitions pursuant to |

TRIM D17/65512

31

| | |
|---|---|
| | <p>Part 13 of the <i>Planning and Development Act 2005</i> and the provisions the <i>City of Vincent Town Planning Scheme No. 1</i> and <i>City of Perth District Planning Scheme No 2</i>.</p> <p>e) Exercise discretion and to respond to appeals lodged with the State Administrative Tribunal for;</p> <ol style="list-style-type: none"> 1. the determination of planning application appeals under Part 14 of the <i>Planning and Development Act 2005</i>, and the <i>City of Vincent Town Planning Scheme No. 1</i> <i>City of Perth District Planning Scheme No 2</i> and associated policies, <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>; 2. the determination of '<i>without prejudice</i>' conditions. <ul style="list-style-type: none"> • Take action for the administration and implementation of the <i>City of Vincent Town Planning Scheme No. 1</i> and <i>City of Perth District Planning Scheme No 2</i>. |
| <p>Conditions and Reporting Requirements</p> | <p>The power to:</p> <ul style="list-style-type: none"> • prosecute under the <i>Planning and Development Act 2005, Part 13</i>; • make recommendations for appointment of consultants/legal representatives for SAT Matters; • deal with matters Schedule 2, Part 9, Clause 77 (1). <p>Appointment of Consultants/Legal Representatives for SAT Matters</p> <p>Quotations are to be obtained and a recommendation is to be provided for all matters which are appealed to the SAT.</p> <p>SAT Matters – Mediation</p> <p>The power to respond to appeals lodged with the State Administrative Tribunal and establish a position with respect to any mediation process resulting from an appeal against a decision made under by Council. "<i>Without Prejudice</i>" conditions and amended plans for these matters are to be reported to the Council for consideration and determination.</p> <p>The power to respond to appeals lodged with the State Administrative Tribunal and determine a position with respect to any mediation process resulting from an appeal against a decision made under delegated authority. Including a reconsideration pursuant to Section 31 under the SAT Act 2009.</p> <p>Consideration of Development Applications - in accordance with Schedule 2, Part 9, Clause 77 (1) <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>.</p> <p>Copies of documents/approvals/notices given and reports of actions taken are to be retained on the appropriate file or record.</p> |

No: 6.3 Determination of Various Planning Applications

| | |
|---------------------------------------|---|
| Function to be performed | <p>Authority to exercise discretion and to approve and apply conditions to planning applications under the applicable Scheme, <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> and <i>Residential Design Codes</i> :</p> <ol style="list-style-type: none"> 1. for residential development that does not comply with the setback requirements under either Table 2 or Figure 3 and/or variations permitted by the Residential Design Codes; 2. for residential development involving open car parking spaces within the street setback area, car parking area or vehicle access-way closer than four (4) metres to ground floor habitable room windows of dwellings, and the provision of one car bay per aged or dependent persons dwelling and/or single bedroom dwelling; 3. for structures, including outbuildings and carports, within setback areas for such carports not abutting the existing dwelling and not being 100 per cent open where it abuts the existing building and/or parapet walls adjacent to the side boundary; 4. for additional/ancillary accommodation; 5. for aged or dependent person dwellings; 6. that involve vehicular access to a dwelling via a Right of Way; 7. for amusement centres; 8. for the erection of canvas awnings; 9. for front fences and screen walls to secondary streets, to roads that are classified as Regional, Primary Distributor or District Distributor Roads and to traffic volume; 10. for proposed car parking, carports and garages to a dwelling that directly fronts onto a street where vehicular access to such is from that street, regardless whether a right of way is available to the property. <p>Note - <i>City of Perth District Planning Scheme No 2 is applicable in the context of the former East Perth Redevelopment Area.</i></p> |
| Legislative power or duty delegated | <p><i>Planning and Development Act 2005</i> - Part 13 and 14 <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> – Schedule 2, Part 10, Clause 82, 77 <i>City of Vincent Town Planning Scheme No. 1</i> - Clauses 34, 38 <i>City of Perth District Planning Scheme No 2</i> – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</p> |
| Delegation to | Chief Executive Officer |
| Delegation | The Chief Executive Officer is delegated the power to exercise discretion and to approve and apply conditions to planning applications. |
| Conditions and Reporting Requirements | <p>1. Set backs</p> <ol style="list-style-type: none"> (i) The landowners and occupiers of all affected properties are notified in writing of the proposal and are given fourteen (14) days in which to view the application being determined; and no written objections are received by the City during this consultation period. (ii) Alternatively to (i) above, the applicant submits to the City written documentary evidence that the landowner and occupier of all adjacent affected properties have no objection to the proposal. (iii) After assessment by officers of the City approval is considered appropriate in terms of Clause 6.3 of the Residential Design Codes. |

| | |
|--|--|
| | <p>(iv) Submissions received which are based on civil, non-planning and/or unsubstantiated matters as determined by the Chief Executive Officer, are not to be considered as part of the consideration of the planning applications and do not require referral to the Council for consideration.</p> <p>2. Open car parking The applications complies with the provisions of the <i>City of Vincent Town Planning Scheme No. 1</i>, <i>City of Perth District Planning Scheme No 2</i> and Residential Design Codes.</p> <p>3. Carports</p> <p>(i) The application complies with Clause 6.2 of the Residential Design Codes and the City's Policy – Street Setbacks.</p> <p>(ii) The landowners and occupiers of all affected properties are notified in writing of the proposal and are given fourteen (14) days in which to view the application being determined; and no written objections are received by the City during this consultation period.</p> <p>(iii) Alternatively to (ii) above, the applicant submits to the City written documentary evidence that the landowner and occupier of all adjacent affected properties have no objection to the proposal.</p> <p>Submissions received which are based on civil, non-planning and/or unsubstantiated matters are not to be considered as part of the consideration of the planning applications and do not require referral to the Council for consideration.</p> <p>4. Ancillary accommodation The application complies with the provisions of the applicable Scheme and Policies - City of Vincent Town Planning Scheme No. 1, and the City's policy – Ancillary accommodation or <i>City of Perth District Planning Scheme No 2</i> and associated policies</p> <p>5. Aged or dependent persons dwellings The application complies with the provisions of the applicable Scheme and Policies - City of Vincent Town Planning Scheme No. 1, and the City's policy – Aged or dependent persons Dwellings or <i>City of Perth District Planning Scheme No 2</i> and associated policies.</p> <p>6. Vehicle access to a dwelling The application complies with the provisions of the applicable Scheme and Policies - City of Vincent Town Planning Scheme No. 1, and the City's policy – Vehicle access to Dwellings via a Right of Way or <i>City of Perth District Planning Scheme No 2</i> and associated policies. With prior consultation with DTS.</p> <p>7. Amusement centres The application complies with the provisions of the applicable Scheme and Policies - City of Vincent Town Planning Scheme No. 1, and the City's policy – Amusement Centres or <i>City of Perth District Planning Scheme No 2</i> and associated policies..</p> <p>8. Erection of canvas awnings The application complies with the provisions of the applicable Scheme and Policies - City of Vincent Town Planning Scheme No. 1, and the City's policy – Canvas Awnings or <i>City of Perth District Planning Scheme No 2</i> and associated policies.</p> <p>9. Front fences and screen walls</p> |
|--|--|

| | |
|--|---|
| | <p>(i) The application complies with the provisions of the applicable Scheme and Policies - City of Vincent Town Planning Scheme No. 1 and the City of Vincent's Policy or <i>City of Perth District Planning Scheme No 2</i> and associated policies.</p> <p>(ii) The decorative capping on the top of piers may go to a maximum height of 2 metres above the adjacent footpath level, with the upper portion of the wall and/or fence being visually permeable, with a minimum of 50 per cent transparency when viewed directly in front of the fence. The wall or fence shall be truncated or reduced to no higher than 0.65 metre for the length of the wall at least 1.5 metres where adjoining vehicle access points.</p> <p>(iii) The front fence and screen wall shall incorporate appropriate design features to reduce the visual impact, for example, open structures, recesses and/or planters facing the road at regular intervals and varying materials.</p> <p>10. Car parking, carports and garages to a dwelling As per the City's policy or <i>City of Perth District Planning Scheme No 2</i> and associated policies..</p> <p>Consideration of Development Applications - in accordance with Schedule 2, Part 9, Clause 77 (1) Planning and Development (Local Planning Scheme) Regulations 2015.</p> |
|--|---|

No: 6.4 Determination of Residential Category 3 & 4 Planning Applications & Consideration of Variations

| | |
|--|---|
| <p>Delegation to be performed</p> | <p>Authority to exercise discretion and to refuse, approve and apply conditions to all Category 3 and 4 residential planning applications, as specified in the Schedule for the following developments:-</p> <p>(1) where it involves a variation to any development standard or requirement (except for variations to density and minimum site area); and</p> <p>(2) Category 3 development applications (developments of a marginal complex nature or impact) including:</p> <ul style="list-style-type: none"> • Single-storey and two-storey residential development comprising: <ul style="list-style-type: none"> - Alterations and/or additions to dwellings; or - A total maximum of three (3) dwellings; and • Ancillary Accommodation; <p>(3) Category 4 developments (developments of a minor complex nature or impact) including:</p> <ul style="list-style-type: none"> • Home occupations; • Garages; • Patios; • Signs (excluding billboards); • and the like. • Carports; • Outbuildings; • Front/street walls and fences; • Swimming Pools; <p>Note - Development of a minor nature that is specified in the City of Vincent's Policy - Minor Nature Development, <i>City of Perth District Planning Scheme No 2</i> or as specified in the Planning and Development (Local Planning Scheme) Regulations 2015, does not require planning approval.</p> <p>Note - <i>City of Perth District Planning Scheme No 2</i> is applicable in the context of the former East Perth Redevelopment Area</p> |
|--|---|

| | |
|--|---|
| Legislative power or duty delegated | <i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2, Part 10, Clause 82, 77</i> <i>City of Vincent Town Planning Scheme No. 1 - Clauses 34, 38</i> <i>City of Perth District Planning Scheme No 2 – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</i> |
| Delegation to | Chief Executive Officer |
| Delegation | <p>The Chief Executive Officer is delegated the power to exercise discretion and to refuse, approve and apply conditions to planning applications for the following developments, as specified in the Schedule:-</p> <p>(1) where it involves a variation to any development standard or requirement (except for variations to density and minimum site area); and</p> <p>(2) Category 3 development applications (developments of a marginal complex nature or impact) including:</p> <ul style="list-style-type: none"> • Single-storey and two-storey residential development comprising: <ul style="list-style-type: none"> - Alterations and/or additions to dwellings; or - A total maximum of three (3) dwellings; and • Ancillary Accommodation <p>(3) Category 4 developments (developments of a minor complex nature or impact) including:</p> <ul style="list-style-type: none"> • Home occupations; • Garages; • Patios; • Signs (excluding billboards); • Swimming Pools; • Carports; • Outbuildings; • Front/street walls and fences; • and the like. <p>Note - Development of a minor nature that is specified in the City of Vincent's Policy - Minor Nature Development, <i>City of Perth District Planning Scheme No 2</i> or as specified in the Planning and Development (Local Planning Scheme) Regulations 2015, does not require planning approval.</p> |
| Conditions and Reporting Requirements | <p>(1) The application is processed and assessed in accordance with the provisions of the <i>City of Vincent Town Planning Scheme No. 1</i>, Policies and Local Laws, <i>City of Perth District Planning Scheme No 2</i> and associated policies and the Design Principles of the Residential Design Codes, where applicable;</p> <p>(2) The development will not unduly adversely affect the orderly and proper planning and conservation of the amenities of the locality.</p> <p>Consideration of Development Applications - in accordance with Schedule 2, Part 9, Clause 77 (1) Planning and Development (Local Planning Scheme) Regulations 2015.</p> <p>The approval to be in writing and recorded on the appropriate record.</p> |

No: 6.5 Determination of Non-Residential and Mixed Use Category 3 & 4 Planning Applications & Consideration of Variations

| | |
|---|---|
| <p>Delegation to be performed</p> | <p>Authority to exercise discretion and to refuse, approve and apply conditions to all Category 3 and 4 non-residential planning applications, as specified in the Schedule for the following developments:-</p> <p>(1) Category 3 Single-storey and two-storey non-residential and mixed use development comprising:</p> <ul style="list-style-type: none"> • New non-residential and mixed use development; • Alterations and/or additions to existing non-residential and mixed use development; • A total maximum car parking variation of up to and including 5.0 car bays; and • Compliance with the associated policy relating to a precinct or area. <p>(2) Category 4 developments (developments of a minor complex nature or impact) including:</p> <ul style="list-style-type: none"> • Carports; • Outbuildings; • Front/street walls and fences; • Garages; • Patios; • Signs (excluding billboards); <p>Note - Development of a minor nature that is specified in the City of Vincent's Policy - Minor Nature Development, <i>City of Perth District Planning Scheme No 2</i> or as specified in the Planning and Development (Local Planning Scheme) Regulations 2015, does not require planning approval.</p> <p>Note - <i>City of Perth District Planning Scheme No 2</i> is applicable in the context of the former East Perth Redevelopment Area</p> |
| <p>Legislative power or duty delegated</p> | <p><i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2, Part 10, Clause 82, 77</i> <i>City of Vincent Town Planning Scheme No. 1 - Clauses 34, 38</i> <i>City of Perth District Planning Scheme No 2 – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</i></p> |
| <p>Delegation</p> | <p>The Chief Executive Officer is delegated the power to exercise discretion and to refuse, approve and apply conditions to planning application for the following developments, as specified in the Schedule:-</p> <p>(1) Category 3 Single-storey and two-storey non-residential and mixed use development comprising:</p> <ul style="list-style-type: none"> • New non-residential and mixed use development; • Alterations and/or additions to existing non-residential and mixed use development; • A total maximum car parking variation of up to and including 5.0 car bays; and • Compliance with the associated policy relating to a precinct or area. <p>(2) Category 4 developments (developments of a minor complex nature or impact) including:</p> <ul style="list-style-type: none"> • Carports; • Outbuildings; • Front/street walls and fences; • Garages; • Patios; • Signs (excluding billboards); |

| | |
|--|--|
| | Note - Development of a minor nature that is specified in the City of Vincent's Policy - Minor Nature Development, <i>City of Perth District Planning Scheme No 2</i> or as specified in the Planning and Development (Local Planning Scheme) Regulations 2015, does not require planning approval. |
| Delegation to | Chief Executive Officer |
| Conditions and Reporting Requirements | <p>(1) The application is processed and assessed in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1, Policies and Local Laws, <i>City of Perth District Planning Scheme No 2</i> and associated policies and the Design Principles of the Residential Design Codes, where applicable;</p> <p>(2) The development will not unduly adversely affect the orderly and proper planning and conservation of the amenities of the locality.</p> <p>Consideration of Development Applications - in accordance with Schedule 2, Part 9, Clause 77 (1) Planning and Development (Local Planning Scheme) Regulations 2015.</p> <p>The approval to be in writing and recorded on the appropriate record.</p> |

No: 6.6 Amenity Consideration and Conditions on Residential Developments

| | |
|---------------------------------------|---|
| Function to be performed | <p>Authority to exercise discretion and to determine;</p> <ol style="list-style-type: none"> 1. that the amenity of the area is generally not adversely affected by a proposed single dwelling therefore not requiring a planning approval for that dwelling under the provisions of the <i>City of Vincent Town Planning Scheme No. 1, City of Perth District Planning Scheme No 2</i> or as specified in the Planning and Development (Local Planning Scheme) Regulations 2015; 2. whether to apply restrictions and conditions to address overlooking and privacy on planning approvals and building licences; 3. licences to have regard to and apply conditions to any trees or other vegetation worthy of retention under the City of Vincent Town Planning Scheme No. 1; <p>and have regard to and apply conditions relating to amenity on planning applications for residential developments under the Residential Design Codes.</p> <p><i>Note - City of Perth District Planning Scheme No 2 is applicable in the context of the former East Perth Redevelopment Area.</i></p> |
| Legislative power or duty delegated | <p><i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2, Part 10, Clause 82, 77</i> <i>City of Vincent Town Planning Scheme No. 1 - Clauses 34, 38</i> <i>City of Perth District Planning Scheme No 2 – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</i></p> |
| Delegation to | Chief Executive Officer |
| Delegation | <p>The Chief Executive Officer is delegated the power to exercise discretion and to determine;</p> <ol style="list-style-type: none"> 1. that the amenity of the area is generally not adversely affected by a proposed single dwelling therefore not requiring a planning approval for that dwelling under the provisions of the <i>City of Vincent Town Planning Scheme No. 1, City of Perth District Planning Scheme No 2</i> or as specified in the Planning and Development (Local Planning Scheme) Regulations 2015; 2. whether to apply restrictions and conditions to address overlooking and privacy on planning approvals and building licences; 3. licences to have regard to and apply conditions to any trees or other vegetation worthy of retention under the City of Vincent Town Planning Scheme No. 1; <p>and have regard to and apply conditions relating to amenity on planning applications and building licences for residential developments under the Residential Design Codes.</p> |
| Conditions and Reporting Requirements | <p>Single Dwelling</p> <p>(i) The proposed single dwelling complies with the provisions of the <i>City of Vincent Town Planning Scheme No. 1, City of Perth District Planning Scheme No 2</i> and associated policies Residential Design Codes and City of Vincent policies.</p> <p>Overlooking and Privacy</p> <p>(i) The application complies with the provisions of the <i>City of Vincent Town Planning Scheme No. 1, City of Perth District Planning Scheme No 2</i> and associated policies Residential Planning Codes and the City of Vincent's Policy – Privacy.</p> <p>(ii) Where the application involves a variation to the setback requirements, the landowners and occupiers of all affected properties are notified in writing of the proposal and are given fourteen (14) days in which to view the application being</p> |

TRIM D17/65512

39

| | |
|--|--|
| | <p>determined; and no written objections are received by the City during this consultation period.</p> <p>(iii) Alternatively to (ii) above, the applicant submits to the City written documentary evidence that the landowner and occupier of all adjacent affected properties have no objection to the proposal.</p> <p>(iv) Submissions received which are based on civil, non-planning and/or unsubstantiated matters as determined by the Chief Executive Officer, are not to be considered as part of the consideration of the planning applications and do not require referral to the Council for consideration.</p> <p>Trees or Other Vegetation</p> <p>(i) The retention of trees listed on the City of Vincent Trees of Significance Inventory and City of Vincent Interim Significant Tree Data Base – Possible Inventory Inclusion and Reference.</p> <p>(ii) Prior liaison with Manager Parks and Property Services.</p> <p>The approval to be in writing and recorded on the appropriate record.</p> |
|--|--|

No: 6.7 Planning Applications Refusal

| | |
|--|--|
| Function to be performed | <p>Authority to exercise discretion and to refuse planning applications for development that involves an 'X' use (a use that is not permitted), in the Zone Table of the <i>City of Vincent Town Planning Scheme No. 1</i> and not a preferred or contemplated use in the <i>City of Perth District Planning Scheme No 2</i>.</p> <p>(An 'X' use is not a 'non-conforming' use if it is not contained in the City of Vincent's adopted Non-Conforming Use Register.)</p> <p>Note - <i>City of Perth District Planning Scheme No 2 is applicable in the context of the former East Perth Redevelopment Area.</i></p> |
| Legislative power or duty delegated | <p><i>Planning and Development (Local Planning Scheme) Regulations 2015</i> – Schedule 2, Part 10, Clause 82, 77 <i>City of Vincent Town Planning Scheme No. 1</i> - Clauses 34, 38 <i>City of Perth District Planning Scheme No 2</i> – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</p> |
| Delegation to | Chief Executive Officer |
| Delegation | <p>The Chief Executive Officer is delegated the power to refuse planning applications for development that involves an 'X' use (a use that is not permitted), in the Zone Table of the <i>City of Vincent Town Planning Scheme No. 1</i> and is not a preferred or contemplated use in the <i>City of Perth District Planning Scheme No 2</i>.</p> |
| Conditions and Reporting Requirements | <p>Report to the Council on a quarterly basis.</p> <p>The information to be in writing and recorded on the appropriate record.</p> |

No: 6.8 “P”, “IP”, “AA” and “SA” Uses – All Categories

| | |
|--|--|
| Function to be performed | Authority to exercise discretion and to approve and apply conditions to planning applications for developments and uses classified as “P”, “IP”, “AA” and “SA” under the <i>City of Vincent Town Planning Scheme No. 1</i> and preferred and contemplated uses under <i>City of Perth District Planning Scheme No 2</i> . Note - <i>City of Perth District Planning Scheme No 2 is applicable in the context of the former East Perth Redevelopment Area.</i> |
| Legislative power or duty delegated | <i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2, Part 10, Clause 82, 77</i> <i>City of Vincent Town Planning Scheme No. 1 - Clauses 34, 38</i> <i>City of Perth District Planning Scheme No 2 – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</i> |
| Delegation to | Chief Executive Officer |
| Delegation | The Chief Executive Officer is delegated the power to exercise discretion and to approve and apply conditions to planning applications for developments and uses classified as “P”, “IP”, “AA” and “SA” under the <i>City of Vincent Town Planning Scheme No. 1</i> and <i>preferred and contemplated uses under City of Perth District Planning Scheme No 2</i> . |
| Conditions and Reporting Requirements | <p>(i) The application complies with the provisions of the City of Vincent Town Planning Scheme No. 1, Residential Design Codes (where applicable) and the City of Vincent Policies and Local Laws.</p> <p>(ii) In relation to planning applications for “P”, “IP”, and “AA” uses and developments, that comply with the standard requirements of City of Vincent Town Planning Scheme No. 1, policies and local laws and the Residential Design codes, no public consultation is required. Non-compliance with the above standard requirements will require the landowners and occupiers of all affected properties to be notified in writing of the proposal and are given fourteen (14) days in which to view the application being determined; subject to 5 or less written objections being received by the City during this consultation period.</p> <p>(iii) In relation to preferred and contemplated uses and developments that comply with the standard requirements under <i>City of Perth District Planning Scheme No 2</i> and associated policies and the Residential Design codes, no public consultation is required. Non-compliance with the above standard requirements will require the landowners and occupiers of all affected properties to be notified in writing of the proposal and are given fourteen (14) days in which to view the application being determined; subject to 5 or less written objections being received by the City during this consultation period.</p> <p>(iv) Alternatively to (ii) or (iii) above, the applicant submits to the City written documentary evidence that the landowner and occupier of all adjacent affected properties have no objection to the proposal.</p> <p>(v) In relation to planning applications for “SA” uses and developments, the proposal is advertised in accordance with the Clause 37 of the City of Vincent Town Planning Scheme</p> |

TRIM D17/65512

42

| | |
|--|---|
| | <p>No. 1 and no written objections are received by the City during this consultation period.</p> <p>(vi) In relation to planning applications for “IP” uses and developments, the proposal is incidental to the predominant uses of the property.</p> <p>(vii) Submissions received which are based on civil, non-planning and/or unsubstantiated matters are not to be considered as part of the consideration of the planning applications and do not require referral to the Council for consideration.</p> <p>Consideration of Development Applications - in accordance with Schedule 2, Part 9, Clause 77 (1) Planning and Development (Local Planning Scheme) Regulations 2015.</p> <p>The approval to be in writing and recorded on the appropriate record.</p> |
|--|---|

No: 6.9 Non-Conforming Uses

| | |
|--|---|
| Function to be performed | Authority to exercise discretion and to approve and apply conditions to planning applications for non-conforming uses of the <i>City of Vincent Town Planning Scheme No. 1</i> . |
| Legislative power or duty delegated | <i>City of Vincent Town Planning Scheme No. 1</i> , Clauses 16(1), 16(2) and 16(3), 49 . |
| Delegation to | Chief Executive Officer |
| Delegation | The Chief Executive Officer is delegated the power exercise discretion and to approve and apply conditions to planning applications for non-conforming uses under Clauses 16(1), 16(2) and 16(3) of the <i>City of Vincent Town Planning Scheme No. 1</i> . |
| Conditions and Reporting Requirements | <p>(i) In relation to an application for an alteration or extension to a non-conforming use or erection, alteration or extension to a building used in conjunction with a non-conforming use, the proposal conforms with any other provisions and requirements contained in the <i>City of Vincent Town Planning Scheme No. 1</i>, and does not adversely affect the amenity of the locality.</p> <p>(ii) In relation to an application for a proposed change of use of any land from a non-conforming use to another non-conforming use, the proposed non-conforming use is less detrimental to the amenity of the locality than the original non-conforming use and is closer to the intended purpose of the zone or reserve.</p> <p>(iii) The proposal is advertised in accordance with the Clause 37 of the <i>City of Vincent Town Planning Scheme No. 1</i> and 5 or less written objections are received by the City during this consultation period.</p> <p>(iv) Submissions received which are based on civil, non-planning and/or unsubstantiated are not to be considered as part of the consideration of the planning applications and do not require referral to the Council for consideration.</p> <p>The approval to be in writing and recorded on the appropriate record.</p> |

No: 6.10 Determination of Applications for Demolition

| | |
|---------------------------------------|---|
| Function to be performed | <p>Authority to exercise discretion, to defer consideration, refuse, or approve planning applications for demolition under the <i>City of Vincent Town Planning Scheme No. 1</i>, and <i>City of Perth District Planning Scheme No 2</i>.</p> <p>Note - Development of a minor nature that is specified in the City of Vincent's Policy - Minor Nature Development, <i>City of Perth District Planning Scheme No 2</i> or as specified in the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>, does not require planning approval.</p> <p>Note - <i>City of Perth District Planning Scheme No 2</i> is applicable in the context of the former East Perth Redevelopment Area.</p> |
| Legislative power or duty delegated | <p><i>Planning and Development (Local Planning Scheme) Regulations 2015</i> – Schedule 2, Part 10, Clause 82, 77 <i>City of Vincent Town Planning Scheme No. 1</i> - Clauses 34, 38, 41 <i>City of Perth District Planning Scheme No 2</i> – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</p> |
| Delegation to | Chief Executive Officer |
| Delegation | <p>The Chief Executive Officer is delegated the authority to exercise discretion, to defer consideration, refuse, or approve planning applications for demolition under the <i>City of Vincent Town Planning Scheme No. 1</i>, and <i>City of Perth District Planning Scheme No 2</i>.</p> |
| Conditions and Reporting Requirements | <p>(i) The place is not listed on the City of Vincent Municipal Heritage Inventory and Interim Heritage Data Base, State Register of Heritage Places (Interim and Permanent), Register of National Estate, and National Trust Listing.</p> <p>(ii) In assessing an application consult with any person or body under the applicable Scheme and have regard to any written submissions lodged. (iii) Where an application may affect an area declared by the Council to be a heritage place before determining the application, to require a heritage assessment to be carried out to determine how the proposed development might affect the area or place.</p> <p>(iv) An archival documented record of the place (including photographs, floor plans and elevation) for the City of Vincent Historical Archive Collection shall be submitted and approved prior to the issue of a demolition licence.</p> <p>(v) To approve applications either unconditionally or subject to such conditions considered to be appropriate</p> <p>(vi) Consideration of Development Applications - in accordance with Schedule 2, Part 9, Clause 77 (1) <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>.</p> <p>The information is to be in writing and recorded on the appropriate record.</p> |

No: 6.11 Determination of Applications for Signs

| | |
|--|---|
| Function to be performed | <p>Authority to exercise discretion and to approve and apply conditions to planning applications and sign licence applications, under the <i>City of Vincent Town Planning Scheme No. 1</i>, and associated policies, <i>City of Perth District Planning Scheme No 2</i> and associated policies, Planning and Development (Local Planning Scheme) Regulations 2015.</p> <p>Note - <i>City of Perth District Planning Scheme No 2 is applicable in the context of the former East Perth Redevelopment Area.</i></p> |
| Legislative power or duty delegated | <p><i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2, Part 10, Clause 82, 77</i> <i>City of Vincent Town Planning Scheme No. 1 - Clauses 34, 38</i> <i>City of Perth District Planning Scheme No 2 – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</i></p> |
| Delegation to | Chief Executive Officer |
| Delegation | The Chief Executive Officer is delegated the power to exercise discretion and to approve and apply conditions to planning applications and sign licence applications, under the <i>City of Vincent Town Planning Scheme No. 1</i> , and associated policies, <i>City of Perth District Planning Scheme No 2</i> and associated policies, <i>Planning and Development (Local Planning Scheme) Regulations 2015.</i> |
| Conditions and Reporting Requirements | <p>(i) The City of Vincent may at its discretion vary the standard or provision subject to such conditions as it thinks fit.</p> <p>(ii) The sign is not a security sign to be erected on a Council owned building.</p> <p>(iii) The sign is the only security sign, and has an area no greater than fifteen (15) square centimetres, to be erected on a lot.</p> <p>(iv) The sign is not to be erected on a residential property or any wall, unless it is associated with an approved home occupation operating on site.</p> <p>(v) The sign is not subject to the City of Vincent's Policy 2.1.2 – "<i>Directional Signs</i>".</p> <p>(vi) The sign is not a billboard.</p> <p>Consideration of Development Applications - in accordance with Schedule 2, Part 9, Clause 77 (1) Planning and Development (Local Planning Scheme) Regulations 2015.</p> <p>The approval to be in writing and recorded on the appropriate record.</p> |

No: 6.12 Use and Development of Land on City of Vincent Scheme Reserves & Metropolitan Region Scheme Reserves

| | |
|--|---|
| Function to be performed | Authority to exercise discretion and to approve and apply conditions to planning applications and building licences for use and development of land on: <ol style="list-style-type: none"> 1. City of Vincent Scheme Reserves; and 2. Metropolitan Region Schemes Reserves. |
| Legislative power or duty delegated | <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> – Schedule 2, Part 10, Clause 82, 77 <i>City of Vincent Town Planning Scheme No. 1</i> - Clauses 34, 38 |
| Delegation to | Chief Executive Officer |
| Delegation | The Chief Executive Officer is delegated the power to exercise discretion and to approve and apply conditions to planning applications and building licences for use and development of land on: <ol style="list-style-type: none"> 1. City of Vincent Scheme Reserves; and 2. Metropolitan Region Schemes Reserves. |
| Conditions and Reporting Requirements | (i) The use and development of land on City of Vincent Scheme Reserves complies with the provisions of the <i>City of Vincent Town Planning Scheme No. 1</i> with particular attention to Clause 12 and the City's policies and local laws. (ii) The use and development of land on Metropolitan Region Scheme Reserves complies with the provisions of the <i>City of Vincent Town Planning Scheme No. 1</i> and the City's policies and local laws. The approval to be in writing and recorded on the appropriate record. |

No: 6.13 Telecommunications Facilities

| | |
|--|---|
| Function to be performed | Authority to exercise and approve and apply conditions to planning applications and building licences, if applicable, for; <ol style="list-style-type: none"> 1. micro-cell telecommunications facilities; and 2. telecommunication facilities. |
| Legislative power or duty delegated | <i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2, Part 10, Clause 82, 77</i> <i>City of Vincent Town Planning Scheme No. 1 - Clauses 34, 38</i> <i>City of Perth District Planning Scheme No 2 – Clauses 36, 38, 43, 44, 45, 47, 48 and 59.</i> |
| Delegation to | Chief Executive Officer |
| Delegation | The Chief Executive Officer is delegated the power to exercise and approve and apply conditions to planning applications and building licences, if applicable, for; <ol style="list-style-type: none"> 1. micro-cell telecommunications facilities; and 2. telecommunication facilities. |
| Conditions Reporting Requirements and | <p>1. Micro-Cell Telecommunications Facilities</p> <p>(i) The application complies with the provisions of the <i>City of Vincent Town Planning Scheme No. 1</i>, where applicable.</p> <p>(ii) The application complies with the <i>Telecommunications Act 1997</i> and the <i>Telecommunications Code of Practice 1997</i>.</p> <p>(iii) The installation of the poles and conduits and footpath reinstatement within the road reserve shall be undertaken by the City at the Carrier's full cost.</p> <p>(iv) The microcell unit and poles within the road reserve shall conform to the relevant Australian Standards in respect of frangibility upon impact by vehicles and clearance for pedestrians.</p> <p>(v) The City shall be indemnified against any claim that may arise as a result of accident or injury involving the facility (vehicle or pedestrian) within the road reserve.</p> <p>(vi) Any replacement of an existing sign pole by a microcell pole and/or if a new location within the road reserve requires the prior approval of the Director Technical Services.</p> <p>(vii) The Carrier to be responsible for maintenance and replacement of the microcell unit, pole and associated equipment within the road reserve in the advent that it is damaged or destroyed.</p> <p>(viii) The City reserves the right to request that the microcell unit, pole and associated equipment to be removed from and/or moved within the road reserve at the Carrier's full cost. Under the new Australian Road Rules, parking restrictions adjacent to intersections will be changed. There is the likelihood that existing signs will have to be moved to comply. If these signs accommodate microcell units the additional cost to relocate and reinstall the microcell shall be met by the Carrier.</p> <p>(ix) The comments and conditions of Main Roads Western Australia and/or Western Australian Planning Commission, where applicable.</p> <p>(x) Prior to the installation of any facility, a formal agreement to be</p> |

TRIM D17/65512

48

| | |
|--|--|
| | <p>entered into between the City, the Carrier, Main Roads Western Australia and/or Western Australian Planning Commission, where applicable. This agreement shall address the above comments and conditions and all costs associated with the preparation of this agreement to be met by the Carrier.</p> <p>2. Telecommunication Facilities</p> <p>(i) The application complies with the provisions of the City of Vincent Town Planning Scheme and City's policy – Telecommunications Facilities.</p> <p>(ii) No written objections are received by the Council during the consultation period prescribed in the City's policy – Telecommunications Facilities.</p> <p>(iii) Submissions received which are based on civil, non-planning and/or unsubstantiated matters as determined by the Chief Executive Officer, are not to be considered as part of the consideration of the planning applications and do not require referral to the Council for consideration.</p> <p>The approval to be in writing and recorded on the appropriate record.</p> |
|--|--|

SCHEDULE – CATEGORIES FOR APPLICATIONS FOR DELEGATION

No. 6.4 – Determination of Residential Category 3 & 4 Planning Applications and Consideration of Variations

No. 6.5 – Determination of Non-Residential and Mixed Use Category 3 & 4 Planning Applications and Consideration of Variations

| USE CLASS | CATEGORY | | | |
|---|-----------------------|-----------------------------|-----------------------------|------------------------|
| | <u>Most Important</u> | <u>Moderately Important</u> | <u>Marginally Important</u> | <u>Least Important</u> |
| | 1 | 2 | 3 | 4 |
| Single House, caretaker's dwelling - 3 or less in number | | | 3 | |
| Single House, caretaker's dwelling - more than 3 in number | | 2 | | |
| Aged or dependent persons dwellings - 3 or less in number | | | 3 | |
| Aged or dependent persons dwellings - more than 3 in number | | 2 | | |
| Attached house, grouped dwelling - 3 or less in number | | | 3 | |
| Attached house, grouped dwelling - more than 3 in number | | 2 | | |
| Multiple dwelling - 3 or less in number | | | 3 | |
| Multiple dwelling - more than 3 in number | | 2 | | |
| Home occupations | | | | 4 |
| Lodging house, hotel, motel club, tavern, private hostel, service apartment | 1 | | | |
| Hospital, institutional building | 1 | | | |
| Consulting rooms | | | 3 | |
| Local shop | | | 3 | |
| Shop | | | 3 | |
| Fish shop, pet meat shop, pet shop | | | 3 | |
| Eating house | | | 3 | |
| Day nursery | | | 3 | |
| Recreational facilities | | | 3 | |
| Educational establishment | | 2 | | |
| Public worship - place of | | 2 | | |
| Theatre, cinema, commercial Hall | | 2 | | |
| Civic building | | | 3 | |
| Office building | | | 3 | |
| Light industry | | | 3 | |
| General industry | | | 3 | |
| Hazardous or noxious industry | | | 3 | |
| Warehouse, showroom | | | 3 | |
| Public utilities | | | 3 | |
| Car park | | | 3 | |
| Amusement centre, camping ground, caravan park, cemetery, crematorium, drive-in theatre, drive-in fast food outlet, funeral parlours, fuel depot, open air display, open air storage yard, service station, transport depot, vehicle sales premises, veterinary clinic, veterinary hospital | | | 3 | |

TRIM D17/65512

50

| | | | | |
|--|---|---|---|---|
| Outbuildings, fences, patios and carports/garages | | | | 4 |
| Alterations or additions to non-residential development | | | 3 | |
| Signs | | | | 4 |
| All Development involving 3 storeys or more | 1 | | | |
| Up to two-storey mixed use development with 3 or less multiple dwellings | | | 3 | |
| Demolition – Heritage Assessment | | 2 | | |
| Retrospective applications | | 2 | | |
| Retrospective applications (compliant and/or minor nature) | | | 3 | |
| Subdivisions | | | 3 | |

Summary of Existing and Recommended Delegated Functions:

| No. | Development Currently Determined by Council | Comment/Recommended Change |
|-----|---|---|
| 1. | Single House, caretaker's dwelling – more than 3 in number | Only one new Single House or caretaker's dwelling can be proposed for a property and so this requirement is considered to be superfluous and is recommended to be removed. |
| 2. | Aged or dependent persons dwellings - more than 3 in number | No change proposed. |
| 3. | Attached house, grouped dwelling - more than 3 in number | No change proposed. |
| 4. | Multiple dwelling – more than 3 in number | No change proposed. |
| 5. | Lodging house, hotel, motel, club, tavern, private hostel, serviced apartment | No change proposed. |
| 6. | Hospital, institutional building | No change proposed. |
| 7. | Educational establishment | No change proposed. |
| 8. | Public worship - place of | No change proposed. |
| 9. | Theatre, cinema, commercial hall | No change proposed. |
| 10. | Development involving 3 storeys or more | No change proposed. |
| 11. | Demolition of Heritage buildings | No change proposed. |
| 12. | Development proposing a total maximum car parking variation greater than 5.0 car bays | No change proposed. In addition, it is recommended that Council determine not to require cash-in-lieu and/or a reciprocal parking arrangement for any application that does not meet the applicable car parking minimum under Table 1 of the City's Policy No. 7.7.1 – Non-Residential Parking Requirements. This will still delegate the CEO the power to approve such applications provided cash-in-lieu or a reciprocal parking agreement is provided for the entire shortfall in parking under Table 1 of Policy No. 7.7.1 – Non-Residential Parking Requirements up to a maximum of 5.0 bays. |
| 13. | Development proposing a non-compliance with a precinct or area policy | There is considered to be sufficient guidance to determine applications that do not meet the deemed-to-comply standards of design guideline are, character retention area or heritage area policies, noting that if an application receives more than five (5) objections it will be presented to Council in accordance with 16. below. It is recommended that the CEO to be delegated the power to determine such applications, subject to the City first advertising that development application to the entire design guideline area, character retention area or heritage area to ensure that any developments that concern the precinct community are determined by Council. |

Summary of Existing and Recommended Delegated Functions:

| No. | Development Currently Determined by Council | Comment/Recommended Change |
|-----|---|--|
| 14. | Development proposing a variation to density and minimum site area | There is no scope for a development application to vary the density of a site. In relation to the minimum site area requirements, the City has no discretion to vary this under the R-Codes, only the WAPC can approve such a variation. As a result, these provisions are considered superfluous and it is recommended that this requirement be removed to allow the CEO to refuse such applications or, where a minimum site area variation has already been approved by the WAPC through a subdivision approval, determine the subsequent development application. |
| 15. | Refusal of P, IP, AA and SA classified land uses | There is currently delegation for the CEO to approve applications involving 'P', 'IP', 'AA' and 'SA' uses. There is considered to be adequate guidance in LPS2 and the City's policy to allow the CEO to refuse such applications. It is recommended that the CEO be delegated the authority to approve or refuse application proposing P', 'IP', 'AA' and 'SA' uses. |
| 16. | P, IP and AA classified land uses where more than five (5) objections have been received. | No change proposed, except to simplify this such that it applies to all development applications. |
| 17. | SA classified land uses, where any objections are received | There is not considered to be any significant difference between 'SA' uses and 'AA' uses and so it is recommended that 'SA' uses also be presented to Council where more than five (5) objections are received. |
| 18. | IP classified land uses, where the proposal is not incidental to the primary use. | Where a proposed land use is not incidental to the primary use it cannot be classified as an 'IP' use and so this requirement is considered to be superfluous and is recommended to be removed. |
| 19. | Refusal of non-conforming use applications | There is considered to be adequate guidance in LPS2 and the City's policy to allow the CEO to refuse non-conforming use applications. It is recommended that the CEO be delegated the authority to also refuse applications proposing 'non-conforming' uses. |
| 20. | New non-conforming use applications that do not comply with the Scheme | New non-conforming uses can only be approved under LPS2 where they replace an existing non-conforming use and meet the following requirements: a) the use is less detrimental to the amenity of the locality than the existing non-conforming use; and b) is closer to the intended purpose of the zone in which the land is situated. It is considered most appropriate for Council to determine whether a proposal meets these requirements and so it is recommended that Council determine all non-conforming use applications that propose to replace an existing non-conforming use. Rewording this requirement in this way will delegate the CEO to power to refuse any other non-conforming use application. |

Summary of Existing and Recommended Delegated Functions:

| No. | Development Currently Determined by Council | Comment/Recommended Change |
|-----|---|--|
| 21. | Non-conforming use applications that are more detrimental than the existing non-conforming use and less closely aligned to the intent of the zone | See response to 20. above. |
| 22. | Non-conforming use applications where more than five (5) objections are received | No change proposed. |
| 23. | Refusal of a sign | There is currently delegation for the CEO to approve signage applications. There is considered to be adequate guidance in the City's policies to allow the CEO to also refuse signage applications. It is recommended that the CEO be delegated the authority to also refuse signage applications. |
| 24. | A security sign being erected on a Council building | This delegation refers to the City's buildings, which the City control as the land manager separately to the development application process. Given this separate control that the City has over any signage proposed for the City's buildings, it is recommended that the CEO be delegated authority to determine security signage development applications. |
| 25. | A security sign greater than 15cm ² or more than one security sign on a single lot | A 'security sign' is not defined in the City's Signs and Advertising Policy and is now covered by other aspects of this Policy. Given this it is recommended that the CEO be delegated authority to determine security sign applications. |
| 26. | A sign erected on a residential property not associated with a home business | There is considered to be adequate guidance in the City's policies to allow the CEO to determine signage applications on residential properties, which is specifically set out under clause 2 iii) of the City's Policy No. 7.5.2 – Signs and Advertising. It is recommended that the CEO be delegated the authority to approve or refuse signage applications. |
| 27. | A directional sign | No change proposed. |
| 28. | A billboard | No change proposed. |
| 29. | Residential developments that do not meet the relevant deemed-to-comply setback standards and one or more objections is received | There is considered to be sufficient policy guidance to determine applications that do not meet the relevant deemed-to-comply setback standards to one individual property, noting that if an application receives more than five (5) objections it will be presented to Council in accordance with 16. above. It is recommended that the CEO be delegated authority to determine such applications. |

Summary of Existing and Recommended Delegated Functions:

| No. | Development Currently Determined by Council | Comment/Recommended Change |
|-----|--|---|
| 30. | Front fences and screen walls to secondary streets that are local and neighbourhood connector roads where: <ul style="list-style-type: none"> • the decorative capping extends beyond 2 metres high; or • the upper portion of the wall is less than 50% visually permeable; or • the wall is not truncated for vehicle sight lines; or • there are no appropriate design features to reduce visual impact | There is now considered to be sufficient policy guidance under the City's Policy 7.1.1: Built Form to determine applications for front fences and screen walls, noting that if an application receives more than five (5) objections it will be presented to Council in accordance with 16. above. On this basis, it is recommended that the CEO be delegated authority to determine front fence and screen wall applications. |
| 31. | Refusal of applications for use of Scheme reserves | There is currently delegation for the CEO to approve applications involving the use of Scheme reserves, but not to refuse these applications. There is now considered to be adequate guidance in LPS2 on the purpose and intent of these reserves and it is recommended that the CEO be delegated the authority to approve or refuse applications proposing the use of Scheme reserves. |
| 32. | Telecommunications facilities where one or more objection is received | No change proposed. |
| 33. | Unlisted uses | The requirement for unlisted uses to be presented to Council will cease under LPS2 as an absolute majority decision on these applications will no longer be required. The majority of the unlisted uses historically determined by Council have become listed in LPS2 and of these the following are recommended to be added to those determined by Council: <ol style="list-style-type: none"> 1. Club premises 2. Correctional Institution 3. Exhibition Centre 4. Hospital 5. Nightclub 6. Residential Building 7. Small bar There is considered to be sufficient policy guidance to determine other use not listed applications noting that if an application receives more than five (5) objections it will be presented to Council in accordance with 16. above. On this basis it is recommended that the CEO be delegated the power to determine unlisted use applications. |
| 34. | Amendments to applications previously determined by Council | It is considered appropriate for Council to see all proposed amendments to applications previously determined by Council, with the exception of applications seeking to extend the period within which the development approved must be substantially commenced. It is proposed that the CEO be delegated the authority to determine these amendment applications only. |

PART 6 TOWN PLANNING**No: 6.1 Enforcement, Offences, Infringement Notices and Legal Action (Including Appeals and SAT Matters)**

| | |
|--|---|
| Delegation from | Local Government, pursuant to Parts 13 and 14 of the <i>Planning and Development Act 2005</i> and Schedule 2, Part 10, Clauses 82 and 77 of the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> . |
| Delegation to | Chief Executive Officer |
| Duty delegated | <i>Planning and Development Act 2005 - Part 13 – Enforcement and legal proceedings</i> <i>Planning and Development Act 2005 - Part 14 – Applications for review</i> <i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2 Part 10 – Enforcement and administration;</i> |
| Delegation | The Chief Executive Officer is delegated the power to: <ul style="list-style-type: none"> • take action for departure from the requirements and provisions of the applicable local planning scheme, the <i>Planning and Development Act 2005</i>, and <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>; and • Respond to appeals lodged with the State Administrative Tribunal. |
| Conditions and Reporting Requirements | Applications originally determined by Council will be returned to Council when considering amended conditions or plans during the SAT process. |

No: 6.2 Determination of Various Applications for Development

| | |
|--|---|
| Delegation from | Local Government, pursuant to Clauses 82 and 77, and Parts 7, 8 and 9 of Schedule 2 of the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> ; and <i>Part IV of the Metropolitan Region Scheme</i> |
| Delegation to | Chief Executive Officer |
| Duty delegated | <i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2 Part 7 – Requirement for development approval;</i> <i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2 Part 8 – Applications for development approval;</i> <i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2 Part 9 – Procedure for dealing with applications for development approval;</i> |
| Delegation | The Chief Executive Officer is delegated the power to exercise discretion in accepting any application without condition. The Chief Executive Officer is delegated the power to exercise discretion, determine and apply conditions to all applications for development approval and subdivision under the applicable local planning scheme and/or regional planning scheme subject to the following conditions. |
| Conditions and Reporting Requirements | That the application for development approval is not a: <ol style="list-style-type: none"> 1. Cinema/theatre; 2. Club premises; 3. Corrective institution; 4. Educational establishment; 5. Exhibition centre; 6. Hotel; 7. Motel; 8. Nightclub; 9. Place of worship; 10. Reception centre; 11. Serviced apartment; 12. Small bar; 13. Tavern; 14. Development involving a height of 1 or more storeys greater than the deemed-to-comply standard in the Local Planning Scheme, any local planning policy or other applicable planning instrument; 15. Demolition of buildings identified in the Heritage List, within a Heritage Area, or on the State Register of Heritage Places; 16. Retrospective application (non-compliant/major); 17. Development where: <ol style="list-style-type: none"> a. The application does not meet, by more than five bays, the minimum requirements of Table 1 of Local Planning Policy 7.7.1 Non-Residential Development Parking Requirements, or b. Cash in lieu of parking comprises all or part of the shortfall in onsite parking and the City proposes to waive all or part of the amount payable, or c. Advertising has occurred and more than 5 objections have been received, or d. More than 3 dwellings are proposed; |

| | |
|--|---|
| | <p>18. Telecommunications facility that does not comply with the relevant local planning policy(s);</p> <p>19. Amendment to an application previously determined by Council except if it is an application to extend the period within which the development must be substantially commenced.</p> |
|--|---|

6 CHIEF EXECUTIVE OFFICER**6.1 APPOINTMENT OF A CEO PERFORMANCE REVIEW CONSULTANT**

TRIM Ref: D18/67870

Author: Emma Cole, Mayor

Authoriser: Michael Quirk, Director Community Engagement

Attachments:

1. Confidential Attachment 1 - Summary of Quotations Received - Confidential
2. Confidential Attachment 2 - Submissions Received for CEO Performance Review - Confidential

RECOMMENDATION:

That Council **APPOINTS** of Price Consulting Pty Ltd to conduct the Chief Executive Officer's Performance Reviews for 2017/18 and 2018/19 in accordance with Policy 4.2.16 – CEO Annual Performance Review.

PURPOSE OF REPORT:

To consider appointing a Human Resources Consultant to assist Council in conducting the Chief Executive Officer's (CEO's) annual performance review for the 2017/18 and 2018/19 periods.

BACKGROUND:

At its Council Meeting on 14 November 2017, Council adopted *Policy No: 4.2.16 – CEO Annual Performance Review* (the Policy). The Policy sets out that a CEO Performance Review Panel will be established to oversee the CEO Annual Review Process and that the Panel shall comprise up to four members, including the Mayor as Chairperson and at least two other Council Members.

Mayor Emma Cole, Cr Gontaszewski, Cr Topelberg and Cr Loden were appointed to the Chief Executive Officer Performance Review Panel at the Council Meeting held on 30 January 2018 2017 for a term expiring on 18 October 2019.

Section 1 of the Policy states:

"1. Performance Review Panel

- 1.1 *The Council shall establish a CEO Performance Review Panel (the Panel) to have carriage and oversight of the Annual Review Process.*
- 1.2 *The Panel shall be appointed by resolution of Council for a two year term ending on the date of the next ordinary local government election.*
- 1.3 *The Panel shall comprise up to four members, including the Mayor as Chairperson and at least two other Council Members.*
- 1.4 *The primary functions of the Panel are to:*
 - (a) *Subject to clause 2.4, determine the scope of work to engage a consultant to assist with the conduct of the review process;*
 - (b) *Review quotations received from consultants to assist with the conduct of the review process;*
 - (c) *Provide a recommendation to Council on the appointment of a suitable consultant to assist with the conduct of the review process;*
 - (d) *Manage the consultant appointed by Council;*
 - (e) *Review the results of the performance review process and remuneration review and provide a recommendation to Council on the same; and*
 - (f) *Discuss possible KPIs and measurements with the CEO for reporting to Council arising from the performance review process."*

The Policy also states that, unless otherwise determined by Council, the selected consultant shall be appointed for a two year term to coincide with the membership term of the Panel.

DETAILS:

A formal request for quotations to conduct the CEO's 2017/18 and 2018/19 Annual Performance Reviews was sent to five (5) suitably qualified human resources consultants on 9 April 2018. Each consultant was provided with identical information and was requested to describe their experience and recommended methodology for conducting the performance review in relation to the requirements under the Policy.

A total of three (3) quotations were received from Acumen Alliance, Learning Horizons and Price Consulting Pty Ltd. The CEO Performance Review Panel met on Tuesday 8 May 2018 to review and consider quotations received. As part of the CEO Performance Review Panel assessment, the following was considered in making a determination:

1. Proposed methodology of the CEO review and level of engagement with Councillors and Senior Executives;
2. Relevant experience to undertake such a review;
3. Proposed cost; and
4. Services fit for the requirements under the Policy.

A summary of the quotations received is included as **Confidential Attachment 1**. A complete copy of each confidential quotation submission was provided to all Panel Members and is included as **Confidential Attachment 2**.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Annual performance reviews are mandated by section 5.38 of the *Local Government Act 1995*:

"5.38. Annual review of certain employees' performances

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment."

City of Vincent *Policy No: 4.2.16 – CEO Annual Performance Review* sets out that a CEO Performance Review Panel will be established to oversee the CEO Annual Review Process, and outlines the primary functions of the Panel in carrying out the review.

RISK MANAGEMENT IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

The review of the CEO's performance is an important opportunity for Council to evaluate the CEO and the City's performance against Council priorities and the City's Corporate Business Plan. It is also important to engage in constructive dialogue with the CEO about past performance and the future direction of the organisation as well as to define Council's future aspirations, expectations and Key Performance Indicators for the position of CEO.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

The summary of the financial value of the three quotations received to conduct the CEO's Performance Reviews is included in **Confidential Attachment 1** given the commercial-in-confidence nature of the information.

There is budget available in order to engage a consultant to conduct the CEO's annual performance review and the estimated cost of the recommended consultant is within budget.

COMMENTS:

There was significant variation in the cost proposed by consultants to conduct the CEO's Performance Review. While some costs reflected differences in approach by consultants, it was the Panel's assessment that not all costs could be clearly attributed to such variations in process.

The Panel gave careful consideration to the proposed process and recognised that despite the current CEO, Len Kosova, tendering his resignation on 11 April 2018 he remains available for the 2017/18 performance review. An annual CEO performance review is a legal requirement under the *Local Government Act 1995* and is a critical organisational review process that will be used to inform future organisational direction, priorities and revised Key Performance Indicators for a new CEO. As a consequence, the Panel is recommending that the review process continue regardless of the CEO's resignation.

It is the view of the Panel, following consideration of the assessment criteria that the methodology outlined in the submission from Price Consulting Pty Ltd was well considered, thorough and provided for sound engagement with Councillors to ensure an accurate review of the CEO's performance. The Panel also agreed that the services and methodology offered meet the requirements of the Policy and the Request for Quotation provided. The Panel also considered that the price submitted from Price Consulting Pty Ltd appropriately reflected the level of engagement proposed and represented very good value for ratepayers.

The nominated consultant, Ms Natalie Lincolne, demonstrated substantial, recent and relevant experience in conducting CEO performance reviews and has performed well in recent CEO performance reviews conducted for the City of Vincent. On the basis of the above, Natalie Lincolne from Price Consulting Pty Ltd is considered to be the most appropriate consultant to carry out the CEO performance reviews over the two year term.

7 CLOSURE