

1.4: ANNUAL REVIEW OF COUNCIL DELEGATIONS - DEVELOPMENT APPROVALS

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| Proponent | : | City of Albany |
| Attachments | : | Planning Processes Guidelines (Amended) Delegations – Schedule 1 – Town Planning Scheme 1A Delegations – Schedule 2 – Town Planning Scheme 3 |
| Appendices | : | Nil |
| Responsible Officer(s) | : | Chief Executive Officer (F James) |

IN BRIEF

- Council is required to review its planning delegations every 12 months as per the *Local Government Act 1995* and clauses within its Town Planning Schemes; the current delegations were last reviewed at Council's OCM of 19 October 2010.
- It is recommended that the same delegation powers be granted by Council as per the previous year.
- The *Planning Applications* Guidelines which are linked to the planning delegations have been amended on three separate occasions in the past year. Accordingly, and given the creation of Development Assessment Panels (DAPs) and that Council has no delegation to approve development applications referred to the Great Southern Joint Development Assessment Panel, change to the delegations documents are required

RECOMMENDATION**ITEM 1.4: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY****MOVED: MAYOR EVANS****SECONDED: COUNCILLOR MATLA****THAT Council:**

- A. pursuant to clause 7.22 of the City of Albany Town Planning Scheme No 1A, and section 5.42 of the *Local Government Act 1995* DELEGATES to the Chief Executive Officer those functions specified in Schedule 1 as attached as they relate to Town Planning Scheme No 1A, subject to the specified parameters;**
- B. pursuant to clause 6.10 of the City of Albany Town Planning Scheme No 3 and section 5.42 of the *Local Government Act 1995* DELEGATES to the Chief Executive Officer those functions specified in Schedule 2 as attached as they relate to Town Planning Scheme No 3, subject to the specified parameters;**
- C. in accordance with the provisions of section 5.44 of the *Local Government Act 1995*, the Chief Executive Officer be AUTHORISED to sub-delegate all or some of the functions identified in Schedule 1 and Schedule 2 based on the position of the officer and their level of experience.**
- D. APPROVE the updated *Planning Applications Guidelines* as attached to reflect the recent introduction of the Development Assessment Panels in Western Australia.**

CARRIED 9-0**BACKGROUND**

1. According to Clause 5.46 of the *Local Government Act 1995* and Clause 7.22 of Town Planning Scheme No. 1A and Clause 6.10 of Town Planning Scheme No. 3 each year the delegations provided to officers are to be reviewed by Council with the ability for the delegation to be revoked, amended or renewed. The current delegations were reviewed in October 2010.
2. The delegations are provided through the provisions of the City's Town Planning Schemes and relate to matters under the *Planning and Development Act 2005*. Both Schemes provide for delegations to be made to Committees of Council or directly to staff.
3. Council at its meeting held on 19 April 2011 reviewed the *Planning Applications Guidelines* which effectively guides the delegation path for development applications at the City. This follows reviews undertaken by Council at its meetings held on 19 October 2010 and 15 February 2011.

DISCUSSION

4. A review of the Town Planning delegations for development approvals has been conducted. Delegation should continue as it delivers a more efficient and time effective service to the City's customers.
5. The Chief Executive Officer will sub-delegate to individual staff based upon their experience, qualifications and capabilities. The CEO can modify or withdraw the authority, without further referral to Council, if the performance of an individual officer does not meet organisational standards or if staff members change.
6. Currently the CEO has 6 levels of sub-delegation to staff, with Level 1 extending only to the Executive Director Planning and Development Services, down to level 6, for the Building Inspection Officer.
7. In September 2010 Charles Johnson reviewed the operations of the Planning and Development Services directorate and found that officer delegation resulted in 90% of all planning decisions being made at the staff level. This was seen as comparable to a sample of seven metropolitan local governments reviewed in 2009 where 93.7% of decisions were made under delegated authority.
8. As Council is no longer the decision making body on development applications over \$7 million, or applications valued between \$3 and \$7 million where the proponent chooses to have their proposal assessed by the Great Southern Joint Development Assessment Panel, this change in legislation is reflected in the *Planning Applications Guidelines* and the Schedule of Delegations as attached.
9. Since the previous delegations were endorsed by Council no amendments to either Scheme have been made which have altered the scheme provisions pertaining to development matters; therefore, the same delegations that currently exist have been proposed to continue with the exception of the Development Assessment Panels delegation as discussed above.

GOVERNMENT CONSULTATION

10. Not applicable.

PUBLIC CONSULTATION / ENGAGEMENT

11. Consultation processes for planning applications are defined in the Scheme and in Council's *Planning Applications Guidelines*.

STATUTORY IMPLICATIONS

12. Section 7.22 of the City of Albany Town Planning Scheme No. 1A and Section 6.10 of the City of Albany Town Planning Scheme No. 3 establish the mechanisms for Council to delegate decision-making. The wording in the two documents is slightly different however they both provide that Council can delegate at any time and the delegation must be reviewed annually. The exact wording is as follows:

13. Section 5.42 of the *Local Government Act 1995* allows Council to delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of its duties. The Chief Executive Officer can then administratively arrange, pursuant to Section 5.44, to allow another person to perform the required function. This method is the most appropriate one for Council to use, as it allows the CEO to change a delegation within 24 hours if needed, as opposed to seeking approval presenting an item to Council.

STRATEGIC IMPLICATIONS

14. This item relates to the following elements of the City of Albany Strategic Plan (2011-2021):

Key Focus Area

Organisational Performance

Community Priority

- Policy and procedures
- Elected Member's performance

Proposed Strategies

- Develop clear processes and policies and ensure consistent, transparent application across the organisation.
- Clearly define and separate roles and responsibilities between elected members and staff.

POLICY IMPLICATIONS

15. This item seeks Council's endorsement of Guidelines.

RISK IDENTIFICATION & MITIGATION

16. The risk identification and categorisation relies on the City's Risk Management Framework.

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|---|-----------------------|-------------|----------------|--|
| <i>If delegations are not updated and adopted by Council all planning applications would need to be forwarded to Council for decisions. This would involve over 30 applications a month and would mean turnaround times as recommended by Council in its Planning Applications Guidelines would not be met and there would be a considerable dissatisfaction from the community and development industry.</i> | <i>Almost Certain</i> | <i>High</i> | <i>Extreme</i> | <i>Mitigation entirely dependent on Council.</i> |

11/10/11

REFER DISCLAIMER

FINANCIAL IMPLICATIONS

17. If Council does not grant delegations to staff to process development applications all applications would need to be forwarded to Council for assessment. This would place an additional workload burden on staff in order to prepare thirty to fifty agenda items for Council's consideration each month, and additional staff resources may be required.

LEGAL IMPLICATIONS

18. If Council does not grant delegations to staff to process development applications all applications would need to be forwarded to Council for assessment.

ALTERNATE OPTIONS

19. Council has the option to amend the delegations to the CEO as presented or withhold all delegations from staff.

SUMMARY CONCLUSION

20. The adoption of staff delegations for development applications will ensure the City continues to operate efficiently in the delivery of town planning assessment.

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| Consulted References | Town Planning Scheme No. 1A Town Planning Scheme No. 3 Planning and Development Act 2005 |
| File Number (Name of Ward) | PE.AUT.1 |
| Previous Reference | OCM 19 October 2010 (Item 4.1) OCM 15 February 2011 (Item 1.7) OCM 19 April 2011 (Item 1.4) |