

30 June 2020

Notice of Motion, Cr Leppert: Delegations Policy amendment

Motion

That Council amend its Delegations Policy to add an automatic referral to Council or the relevant Committee of any proposals “to approve a final concept plan for capital works construction projects with construction value of \$1 million or more that are new capital works projects in the public realm including inside publicly accessible civic buildings”, in accordance with the attachment to the notice.

Background

Council’s Delegations Policy includes general requirements on when matters ought to be referred to Council or a Committee by a delegate. Such requirements include where:

- the proposal raises an issue of significant public interest, concern or controversy, or is likely to do so; and
- the delegate is not satisfied that the proposal has been the subject of appropriate consultation with those likely to be interested in or affected by it.

On some occasions, significant capital works projects have not been approved by Council or Committee prior to seeking planning permission, and/or tendering for works, despite proposing significant changes to the public realm. It is natural from time to time that councillors and delegates will differ in their interpretation of what constitutes an issue of ‘significant public interest’ and what ‘appropriate consultation’ looks like.

In the view of the mover, it is normally not enough to consider that the provision for construction of a major project in the budget, plus a briefing of concept plan at Councillor Forum, constitutes consent by the Council to proceed to planning permission and/or tender. Rather, a Committee (or Council) approval of the final concept plan is desirable as it provides public scrutiny and puts the consent of the governing body beyond ambiguity. If Committee approval were to occur as a matter of course, this would provide for more predictable capital works programming.

To provide further clarity in the delegation policy, therefore, it is proposed to create a clearer threshold as to when referrals of concept plans for significant public realm capital works projects ought to be approved by Council/Committee rather than under delegation. This threshold is for approval of final concept plans, not for the design documentation, or tender, or planning application; those decision triggers are dealt with in other ways.

The proposed threshold for referral of concept plans for significant new public realm capital works projects is \$1m. This aligns with clause 62.02 of the Melbourne Planning Scheme, which exempts Councils from applying for planning permits for building and works for projects with an estimated cost of \$1 million or less.

Only discrete projects valued >\$1m that will change the public realm will be ‘captured’ by the change to the delegations policy. That is, final concept plans for, say, a new sports pavilion, or Southbank Promenade, or a standalone significant bicycle lane construction project, would be referred to Committee, whereas programs made up of lots of small projects (general footpath upgrades), or that do not propose construction (IT and library book purchases), would not.

This clearer threshold will bring additional benefits. At present, difficulties arise when the Future Melbourne Committee is asked to assess a planning application as responsible authority under the *Planning and Environment Act 1987* for a proposal that it has not earlier endorsed as proponent. If members of the public object to the proposal because it is their first opportunity to do so, councillors are politically obliged to talk to the merits of the proposal, rather than the extent to which the proposal complies with the provisions of the Melbourne Planning Scheme. This blurs the role of the Committee and in the view of the mover it is preferable that such matters are dealt with in two stages: first as proponent, to approve concept plans, and later as responsible authority, to determine whether a planning permit should issue. This motion will solve the problem in almost all such cases.

Mover: Cr Rohan Leppert

Secunder: Cr Cathy Oke



Delegations Policy

The objective of this delegation policy is to achieve the best possible results for the City, Council and the community through the effective harnessing of the input of, and co-operation between, Council, the administration and the community.

Council therefore re-affirms its responsibility, in consultation with the community, for setting and owning:

- the vision for the City
- its strategic direction
- the policies necessary to pursue that vision and direction
- the funding for them.

Council also accepts its responsibility to be accountable to the community for the outcomes of its policies.

Council acknowledges the responsibility of the administration:

- to implement the vision, strategies, direction and policies determined by Council
- to provide to the Council all information relevant to issues affecting it
- to advise honestly, loyally and professionally upon those issues
- to provide effective administration and staffing for these purposes, within the framework of Council's budget
- to be accountable to Council for the outcome achieved.

The Council therefore adopts the following policies and processes in relation to the exercise of delegated authority:

1. Referral to Council

A delegate shall refer any proposal whether for a project or program, for work, for a contract, or for a planning decision, to Council or its appropriate Committee, without prior decision by the delegate wherever and whenever:

- the proposal raises an issue of significant public interest, concern or controversy, or is likely to do so
- the proposal raises an issue of policy or process not covered by existing policy or practice
- the proposal has given rise to substantial public objection or appears likely to do so
- the proposal is to approve a final concept plan for capital works construction projects with construction value of \$1 million or more that are new capital works projects in the public realm including inside publicly accessible civic buildings
- implementation of the proposal would require expenditure of Council funds, and such funds have not been specifically provided for in the budget

- the delegate is not satisfied that the proposal has been the subject of appropriate consultation with those likely to be interested in or affected by it
- the delegate is not satisfied that the proposal is one that is appropriate for the decision of the administration rather than the Council
- the delegate believes that it is more appropriate that the proposal or any issue arising in connection with it should be determined by the Council rather than the administration
- any Councillor has indicated a desire to call in the proposal for Council decision.

2. Limitation on Financial Delegations

Where the approval of a proposal would involve the expenditure of Council funds for which provision has been made in Council's budget, the authority of the delegate is nevertheless limited to the following amounts:

For the Chief Executive Officer	\$2 million
For General Managers (or equivalent), in charge of a division	\$1 million
For Directors (or equivalent), in charge of a branch	\$500,000

3. Difficult Issues

Whenever a major issue arises or any difficulty repeatedly arises in relation to the exercise of delegated authority, that issue or difficulty shall be referred to the appropriate Council Committee for consideration.

4. Compliance with Policy

When exercising delegated authority the delegate shall use his or her best judgement to ensure compliance with each and all of the requirements of this resolution.

5. Emergency and/or Extraordinary Circumstances

As identified from time to time by resolution of Council, compliance with sections 1, 3 and 4 of this policy will be suspended where emergency and/or extraordinary circumstances arise (such as a state emergency being declared). Section 2 will continue to apply for General Managers and Directors however, the expenditure limit for the Chief Executive Officer (for which provision has been made in Council's budget) will be for an unlimited amount.

Where notice of such a proposed resolution has been given but quorum is unable to be achieved to consider the proposal, then suspension will be by agreement of both the Lord Mayor and Chief Executive Officer, with such an agreement required to be notified to all councillors and published on the corporate website forthwith.

All decisions that would normally have been dealt with by Council or special committee in open session, but which are made under delegation due to an emergency and/or extraordinary circumstances under this section, will be published on the corporate website as soon as practicable.

6. Policy Review

All instruments of delegation shall be reviewed in the light of this policy and shall be further reviewed in the light of experience within one year after the election of each Council.

[Note: Appropriate consultation means consultation in accordance with Council's Consultation Framework.]

7. Version Control and Change History

Version Number	Approval Date	Approved by	Amendment
1	28 February 2017	Council resolution	No amendments. Adopted in form presented to Council.
2	30 October 2019	Council resolution	Organisational realignment effective 11 November 2019.
3	17 March 2020	Council resolution	Amended delegation policies to respond to emergencies and/or extraordinary circumstances.