

## 0.0 Statutory Planning Decision Making Process

**GENERAL MANAGER**

**Planning and Governance**

### **For Decision**

#### **PURPOSE**

This report outlines options previously considered by Council for the review of decision making processes relating to its statutory function as the Responsible Planning Authority.

#### **DECLARATION OF INTEREST**

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

#### **STRATEGIC FRAMEWORK**

This report is consistent with Latrobe 2026: The Community Vision for Latrobe Valley and the Latrobe City Council Plan 2013-2017.

#### **Latrobe 2026: The Community Vision for Latrobe Valley**

##### *Strategic Objectives – Built Environment*

In 2026, Latrobe Valley benefits from a well planned built environment that is complimentary to its surroundings and which provides for connected and inclusive community.

#### **Latrobe City Council Plan 2013 – 2017**

##### **Theme and Objectives**

##### *Theme 5: Planning for the future*

##### *Strategic Directions - Planning for the future*

- *Explore the establishment of a Council planning committee to guide land use planning, development and growth.*
- *Provide efficient and effective planning services and decision making to encourage development and new investment opportunities.*

#### **BACKGROUND**

‘Planning for the Future’ and ‘Job Creation and Economic Sustainability’ are themes identified in the Council Plan for 2013-2017. A focus has been placed on the objective **‘to reduce the time taken to process land use and development planning applications’** and **‘to provide incentives and work proactively to attract new businesses and industry to locate in Latrobe City.’**

Strategic directions of the Council Plan include *'Exploring the establishment of a Council Planning Committee to guide land use planning, development and growth. To provide efficient and effective planning services and decision making to encourage development and new investment opportunities'*.

### **ISSUES**

The Planning & Environment Act determines the duties and function of Councils as responsible authorities. The Act provides that a Council acting as responsible authority may delegate certain authority, responsibility and functions to Committees of Council or Council officers.

Throughout the State Councils delegate decision making to its officers in several ways. Below provides details of nine like Councils and their performance in efficiently dealing with planning applications.

<b>Municipality</b>	<b>% of applications dealt within 60 days (FYD)*</b>	<b>Delegation Practice</b>
<b>Bass Coast</b>	35%	1 Objection – Director (GM) Delegation (sign off) 2-4 Objections & refusals – Heard at a meeting with Coordinator, Manager and Director – Delegation (sign off) 5 or more Objections – Full Council Meeting (Decision by Council)
<b>Baw Baw</b>	48%	1-5 objections & Refusals however Councillors can call in on any application - Officer Delegation (sign off).
<b>Latrobe City</b>	59%	No Delegation for applications with objections or for refusals (Decision by Council)
<b>East Gippsland</b>	67%	1-5 Objections: Manager & Senior Planning Delegation (sign off)
<b>Geelong</b>	72%	1-5 objections: Officer Delegation (sign off)
<b>Ballarat</b>	75%	Full Officer Delegation (Manager signs off refusals) except for applications relating to specific liquor licences
<b>South Gippsland</b>	76%	1-5 objections & Refusals: Officer Delegation (sign off), Manager signs off refusals
<b>Warrnambool</b>	82%	1-4 objections or refusals: Heard at a meeting with Planner and Coordinator/ Manager – Delegation (sign off) 5 or more Objections – Full Council Meeting (Decision by Council)
<b>Cardinia</b>	83%	1-4 objections: Officer Delegation (sign off) except for specific applications (i.e. major development).

<b>Wellington</b>	97%	Full Officer Delegation (sign off) for all applications
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Currently, Planning Officers AT Latrobe City Council have no delegation for applications that receive an objection or any refusals of applications.

If an objection is received for a planning application, or an application is recommended for refusal, decisions must be made at an Ordinary Council Meeting which can take up to 5 months for a decision. Some of the delays with this current process are:

- The ability to set up a discretionary mediation meetings considering applicant, objector(s) and Councillor(s) availability,
- Time required preparing a Council report,
- Providing time for checking and authorisation of reports,
- Availability in scheduling the report for a Council meeting date.

Councils Statutory Planning team is undertaking improvement process opportunities internally and is reinforcing a culture of continuous improvement within the department. Areas that are undergoing review are:

- Implementing the STEP Planning Process Improvement Program introduced by MAV.
- Review the internal application process from start to finish and implement improvement opportunities.
- Fully engage in SPEAR
- Streamline Pathway program
- Engage with internal stakeholders and developers to understand and implement their requirements
- Recognising and implementing the core values and themes of the Council Plan 2013/2017

Concurrently with this process a review of Council's current decision making process for applications that receive objections or are recommended for refusal is also being embarked on. This report concentrates on this aspect of the improvement process.

Council plays the key role in the development and review of policy to support the development and interests of their community. Delegation of planning matters to Council staff is one process that provides the opportunity for efficient decision making.

It is important that Councils are kept involved in the decision making circle. Councils should be able to make decisions on applications that generate strong community interest or relate to strategic policy direction.

Below are two options provided to Council that will improve the efficiency of statutory planning service delivery for the community.

Option 1	
5 or less objectors	With approved guiding principles (policy/resolutions/Planning Scheme) CEO has delegation to determine application. At the discretion of the CEO, report can be referred to <i>Ordinary Council Meeting</i>
More than 5 objectors	Application heard at <i>Ordinary Council Meeting</i>
Refusal of application	CEO delegation in consultation with GM Planning & Governance and Manager of Statutory Planning
Application of strategic or policy significance	At direction of the CEO application heard at Ordinary Council Meeting
Section 173 Agreement Signing	CEO has delegation to sign 173 agreements
With prior consultation with CEO, Councillors can request any application to be heard at Council meeting	
OPTION 2	
5 or less objectors	With approved guiding principles (policy/resolutions/Planning Scheme, CEO has delegation to determine application. At the discretion of the CEO, report can be referred to <i>Planning Committee Meeting</i>
More than 5 objectors	Application heard at <i>Planning Committee Meeting</i>
Refusal of application	CEO delegation in consultation with GM Planning & Governance and Manager Statutory Planning
Application of strategic or policy significance	At direction of the CEO Application heard at <i>Planning Committee Meeting</i>
Section 173 Agreement Signing	CEO has delegation to sign 173 agreements

As part of these options, officers will provide Councillors with a weekly briefing note that will indicate

- New applications received
- Description of application
- Permit requirement
- Ward
- Status / concerns of application

- Delegation exercised

An example of this report can be found at Attachment 1.

A review of the practice would be undertaken after six months of implementation.

**Option 1** - Implementation of Option 1 would reduce the timeframes on decisions substantially (approx. by 10 weeks) and result in better allocation of resources.

**Option 2** - involves a Planning Committee to be established. Potential structure of a Planning Committee could have the following components:

- Falls within a Section 86 Committee framework
- Five (5) Councillors form the committee
- Council Officers to assist at meetings (Manager Statutory Planning, Manager Future Planning, GM Planning & Governance, Officers as required and an Administration Officer to take minutes)
- Briefing/report provided to committee members one week prior to meeting
- Meet weekly

It is considered that although a planning committee will reduce the current timeframes, the following is still required:

- a Planning Committee report;
- separate meeting date from a Council meeting;
- record taking, and minutes distributed; and
- an application can still be required to be heard at an Ordinary Council meeting.

Option 2 would reduce the timeframes on decisions of approx. by 4-6 weeks, it may add extra time burden to Councillors and, if the application is required to be heard at an Ordinary meeting, added time for the community.

### Section 173

Current practice results in any 173 Agreement submitted to a Council Meeting who then provides delegation to the Chief Executive Officer to sign the Section 173 Agreements.

This can result in applicants waiting 2-4 weeks for a simple administrative outcome. On behalf of the Responsible Authority, 173 Agreements can be signed under delegation by the CEO, which eliminates the need for a 173 agreement to be sent to a Council meeting for signing.

## **FINANCIAL, RISK AND RESOURCES IMPLICATIONS**

Risk has been considered as part of this report and it is considered to be consistent with the Risk Management Plan 2011-2014.

## **INTERNAL/EXTERNAL CONSULTATION**

Benchmarking with municipalities on their Delegation processes was undertaken. Liaison with the MAV and DTPLI also formed part of the research in the review of decision making process.

## **OPTIONS**

1. Adopt option 1 to vary current delegation practices with a review in six months
2. Adopt option 2 to vary current delegation practices with a review in six months
3. Not adopt options provided and seek further information for decision

## **CONCLUSION**

It is considered that adopting an approach that allows decision making to fall within CEO delegation, may drive more efficient, effective and consistent planning outcomes. A report distributed each week will still allow Councillors to play an important role in the process.

### **Attachments**

1. Sample Planning Report

## **RECOMMENDATION**

**A. That Council implement the following planning delegations immediately;**

1. **Any application with five or less objections can be approved by the Chief Executive Officer in accordance with the Latrobe Planning Scheme.**
2. **The Chief Executive Officer may refer any application to Council for consideration should they deem it appropriate to do so.**
3. **Any application that has more than five objections to it must be referred to an Ordinary Council meeting for a decision.**
4. **The Chief Executive Officer in consultation with the appropriate General Manager and Manager may refuse an application that is not in accordance with the Latrobe Planning Scheme.**
5. **In consultation with the Chief Executive any Councillor can request an application to be presented to Council for consideration at an ordinary Council meeting.**
6. **The Chief Executive Officer is delegated the power to sign all s.173 agreements on behalf of Latrobe City Council.**

**B. That a further report be presented to Council reviewing the appropriateness and success of the planning delegations after an initial six month period.**

**C. That the Chief Executive Officer make all necessary amendments to the relevant Instruments of Delegation to put the new planning delegations into effect immediately.**

**SAMPLE STATUTORY PLANNING REPORT 3 MARCH TO 7 MARCH**

**New Applications**

Application number	Description	Permit trigger	Address	Ward	Status / Concerns
2014/1	Use and develop the land for a dwelling	Farming zone, property less than 40ha	111 Smit Street, Smith	Central	Compatibility with the Farming Zone, Further Information requested
2014/33	Extension of Liquor licence	Extend the hours of liquor licence from 11pm to 3 pm	222 John Street, Johns Grove	East	Likely community concerns, application to be advertised.

**Delegation Exercised**

Application number	Description	Permit trigger	Address	Ward	Decision
2013/358	Subdivision of the land	10 lot subdivision in residential 1 zone	333 James Street, St James	South	Approved
2014/12	Use land for medical centres and reduction of car parking	Medical centre in residential zone and reduce number of carparking by 15	444 Stuart Road, Stuart Land	South	Refused by CEO delegation