

Management report to Council

Agenda Item 6.7a

Authorisations under the Planning and Environment Act 1987

Council

Presenter: Angela Meinke, Manager Planning and Building

29 November 2016

Purpose and background

1. The purpose of this report is to authorise persons in regards to the *Planning and Environment Act 1987* (Act).

Key issues

2. A small number of statutes do not allow the delegation of the power to delegate. An example is the Act. An added restriction in this Act is that the power to authorise persons to carry out a duty or function or exercise a power under the Act cannot be delegated. This again requires the Council to authorise persons under the Act.
3. Following the recent illegal demolition of the Corkman Irish Pub (formerly the Carlton Inn) at 154-160 Leicester Street, Carlton, external investigators are being engaged by Council and the Victorian Building Authority to investigate alleged breaches of the Act and other Acts in relation to the unauthorised works.
4. Authorisation is sought to empower three people not employed by Council to carry out the investigation in relation to the Corkman Irish Pub demolition and assist Council's Authorised Officers under the Act.
5. The three individuals for whom authorisation is sought are:
 - 5.1. Robert Mitchelmore, Managing Director RYT Business Solutions. Robert has in excess of 25 years in conducting investigations in the areas of planning and building, and has in addition some 14+ years as a policeman and detective with Victoria Police in addition to several years with the Victorian Building Authority (VBA). RYT Business Solutions has been engaged by a number of Victorian Council's in relation to investigative work.
 - 5.2. Serge Perna is a business associate of Robert Mitchelmore and has a background in investigative works with the VBA and a number of Victorian councils.
 - 5.3. Wayne Rossetto is a Senior Investigator at the VBA.

Recommendation from management

6. That Council authorises Robert Mitchelmore, Serge Perna and Wayne Rossetto to investigate whether the *Planning and Environment Act 1987* (Act), regulations under the Act or the Melbourne Planning Scheme have been contravened in relation to the unauthorised works carried out at 154-160 Leicester Street, Carlton including assisting authorised officers appointed under the Act.

Attachments:

1. Supporting Attachment

Supporting Attachment

Legal

1. Under the Act, the power to authorise persons must be exercised by the Council and cannot be delegated. The officers are being authorised but are not 'authorised officers' under the Act.

Finance

2. No direct financial issues arise from the recommendation from management.

Conflict of interest

3. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

4. There is no requirement to consult with external stakeholders.

Environmental sustainability

5. Environmental sustainability issues or opportunities are considered not relevant to this proposal as it does not impact on the consumption/generation of water, waste, energy and/or greenhouse gases.