

## Management report to Council

Agenda item 6.4

### Establishment of the Amendment C309 West Melbourne Structure Plan Committee

Council

**Presenter:** Marlo Emmitt, Director Governance

**25 February 2020**

#### Purpose and background

1. The purpose of this report is to recommend Council establish the Amendment C309 West Melbourne Structure Plan Committee, pursuant to section 86 of the *Local Government Act 1989* (the Act).
2. In May 2019, the Future Melbourne Committee was unable to attain a quorum when considering Melbourne Planning Scheme Amendment C309: West Melbourne Structure Plan, due to the number of Councillors declaring a conflict of interest. The matter was subsequently dealt with by an officer under delegation.
3. Section 188(2) of the *Planning and Environment Act 1987* provides that adoption of a Planning Scheme Amendment cannot be determined under delegation and therefore must be determined by Council as the relevant planning authority. Given the majority of Councillors remain conflicted, Council cannot form a quorum to deliberate on the matter.
4. The Act empowers councils to establish special committees of the Council and delegate certain powers, duties and functions to the special committee. The Council may appoint members to a special committee and may at any time, remove a member from a special committee.

#### Key issues

5. In November 2019, the Chief Executive Officer, Justin Hanney, wrote to the Minister for Local Government, seeking an exemption under section 80 of the Act for one or more of the conflicted Councillors from the provisions of section 79 of the Act.
6. The Minister has not granted an exemption.
7. By establishing the Committee, non-conflicted Councillors can consider any submissions from members of the public and make decisions of an advisory nature, in the form of recommendations to the Minister for Planning.

#### Recommendation from management

8. That Council:
  - 8.1. Establishes the Amendment C309 West Melbourne Structure Plan Committee (Committee), pursuant to section 86 of the *Local Government Act 1989* (the Act).
  - 8.2. Appoints the Lord Mayor, Sally Capp, and Councillors Frances Gilley, Le Liu, Oke and Watts to be members of the Committee.
  - 8.3. By Instrument of Delegation pursuant to section 86 of the Act, delegates to the Committee the powers, duties and functions of Council to make decisions of an advisory nature in respect to Planning Scheme Amendment C309 West Melbourne Structure Plan, subject to the limitations contained in the Act and the *Planning and Environment Act 1987* (refer Attachment 2).
  - 8.4. Notes that in accordance with Council's Conduct of Meetings Local Law 2019, the Lord Mayor or three Councillors can call a special meeting of the Committee.

#### Attachments:

1. Supporting Attachment (Page 2 of 3)
2. Instrument of Delegation for the Amendment C309 West Melbourne Structure Plan Committee (Page 3 of 3)

## Supporting Attachment

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### Legal

1. The Amendment cannot be adopted under delegation due to restrictions in section 188(2) of the *Planning and Environment Act 1987*.
2. The establishment of the Amendment C309 West Melbourne Structure Plan Committee is good governance practice and accords with the requirements of the *Local Government Act 1989* and the *Planning and Environment Act 1987*. By establishing the Committee, non-conflicted Councillors can consider any submissions from members of the public and make decisions of an advisory nature, in the form of recommendations to the Minister for Planning.

### Finance

3. There are no direct financial implications arising from the recommendation in this report.

### Conflict of interest

4. 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.

### Health and Safety

5. No Health and Safety issues or opportunities have been identified.

### Stakeholder consultation

6. No external consultation has been undertaken as this is a special committee formed by the Council.

### Environmental sustainability

7. This proposal has no significant impact on environmental sustainability.

**Melbourne City Council (Council)**

**Instrument of Delegation**

1. By this instrument of delegation (Instrument) sealed by the Council under section 86(3) of the *Local Government Act 1989* (the Act) the Council delegates to the **Amendment C309 West Melbourne Structure Plan Committee** (Committee) the powers, duties and functions of the Council to make decisions of an advisory nature in respect to planning scheme amendment C309.
2. This Instrument:
  - 2.1. has been authorised by a resolution of the Council on 25 February 2020
  - 2.2. pursuant to section 86(4) of the Act, does not delegate any of the following:
    - 2.2.1. this power of delegation
    - 2.2.2. the power to declare a rate or charge
    - 2.2.3. the power to borrow money
    - 2.2.4. the power to enter into contracts for an amount exceeding an amount previously determined by the Council
    - 2.2.5. the power to incur any expenditure exceeding an amount previously determined by the Council
  - 2.3. pursuant to section 188(2) of the *Planning and Environment Act 1987*, does not delegate the powers under sections 28, 29 and 191 of that Act
  - 2.4. comes into force immediately the common seal of the Council is affixed to it
  - 2.5. remains in force according to its terms until the Council resolves to revoke it
  - 2.6. must be exercised in accordance with:
    - 2.6.1. any lawful guidelines or policies, which the Council from time to time adopts.

Date of Affixing of Common Seal \_\_\_\_\_ day of February 2020.

The **COMMON SEAL** of the )  
**MELBOURNE CITY COUNCIL** )  
 was affixed hereto in accordance with the )  
**Conduct of Meetings Local Law 2019** )  
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Lord Mayor

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Chief Executive Officer