

Management report to Council

Agenda item 6.8

Review of delegations

Council

Presenter: Keith Williamson, General Manager Governance and Organisational Development

29 June 2021

Purpose and background

1. The purpose of this report is for Council to review delegations which have been made under section 11 of the *Local Government Act 2020* (the Act), delegations by Council under other Acts and Council's general delegations policy (Policy).

Key issues

2. Section 11(9) of the Act required the Council to create new delegations on or before 1 September 2020.
3. At its meeting of 28 July 2020, the Council created a new delegation to the Chief Executive Officer under the Act as well as new delegations to positions in the administration under the *Environment Protection Act 1970*, the *Food Act 1984* and the *Road Management Act 2004*.
4. At its meeting of 25 August 2020, the Council created new delegations under the Act to the Future Melbourne Committee, the Gaming Planning Provision Committee, the C309 West Melbourne Structure Plan Committee and the IMAP Implementation Committee. Subsequently:
 - 4.1. a new delegation to the Future Melbourne Committee was given by Council at its meeting on 15 December 2020
 - 4.2. the delegation to the IMAP Implementation Committee was revoked by Council at its meeting on 25 May 2021.
5. It is recommended that:
 - 5.1. the delegations under the *Food Act 1984* and to the Future Melbourne Committee remain unchanged
 - 5.2. the delegation under the *Environment Protection Act 1970* be revoked from 1 July 2021 as it will no longer be required when that Act is repealed on 1 July 2021, (replaced by the *Environment Protection Act 2017* as amended by the *Environment Protection Amendment Act 2018* and the *Environment Protection Amendment Act 2019*)
 - 5.3. the delegations to the Gaming Planning Provision Committee and the C309 West Melbourne Structure Plan Committee be revoked and the committees be dissolved as no longer required
 - 5.4. a new delegation under the *Road Management Act 2004* be made to reflect updated positions and the previous delegation revoked
 - 5.5. the Policy be amended to provide for the role of the Deputy Chief Executive Officer with a limit of \$1 million (the same as the General Managers).
6. The opportunity is also being taken to update authorised officers appointed by Council under the *Planning and Environment Act 1987* and revoke previous appointments under that Act.

Recommendation from management

7. That Council:
 - 7.1. Pursuant to section 11(7) of the *Local Government Act 2020* (LGA 2020), reviews its delegations which have been made under section 11 of the LGA 2020.

- 7.2. Dissolves the Gaming Planning Provision Committee and the C309 West Melbourne Structure Plan Committees and revokes the related instruments of delegation CCL-2020-6 and CCL-2020-7.
- 7.3. By instrument of delegation sealed by the Council under section 118(1) of the *Road Management Act 2004* (RMA), delegates to the persons from time to time holding the positions referred to in column 1 of Attachment 3, Council's powers and functions as a road authority under the RMA identified in column 2 and 3 of Attachment 3, subject to:
 - 7.3.1. the conditions and limitations identified in column 4 of Attachment 3
 - 7.3.2. the restrictions contained in section 118(1) of the RMA and section 11(2) of the LGA 2020
 - 7.3.3. compliance with Council's General Delegations Policy.
- 7.4. Revokes instrument of delegation CCL-2020-2 relating to the RMA, such revocation to take effect immediately after the execution of the instrument of delegation referred to in paragraph 7.3 above.
- 7.5. Revokes instrument of delegation CCL-2020-4 relating to the *Environment Protection Act 1970*, such revocation to take effect on 1 July 2021.
- 7.6. Amends its General Delegation Policy in accordance with the changes in Attachment 2.
- 7.7. By instrument of authorisation sealed by the Council under section 188 of the *Planning and Environment Act 1987* authorise the officers listed at Attachment 7, to carry out the duties and functions and exercise the powers of an 'authorised officer' within the meaning of the *Planning and Environment Act 1987*.
- 7.8. Revokes the instrument of authorisation dated 25 August 2020 and previous appointments of authorised officers made under the *Planning and Environment Act 1987*, to take effect immediately after the execution of the instrument of authorisation referred to in paragraph 7.7 above.

Attachments:

1. Supporting Attachment (Page 3 of 8)
2. Amended delegation policy (Page 4 of 8)
3. Positions, powers and functions under the *Road Management Act 2004* (Page 7 of 8)
4. Authorised officers under the *Planning and Environment Act 1987* (Page 8 of 8)

Supporting Attachment

Legal

1. Section 11(7) of the Act provides that within 12 months after a general election, the Council must review all delegations which it has made under the Act.
2. Unlike other Acts, only the Council can resolve to appoint authorised officers under the *Planning and Environment Act 1987*.

Finance

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

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 material or general conflict of interest in relation to the matter of the report.

Health and Safety

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

Stakeholder consultation

6. The report is a statutory review of delegations and updates authorisations by Council. No stakeholder consultation is required in respect to matters contained in the recommendation from management.

Environmental sustainability

7. The report is to implement administrative and process issues arising from the Act and no environmental sustainability issues or opportunities arise from the report.



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
- the delegate recommends approval of the proposal, but such approval would be, or could reasonably appear to be, inconsistent with a previous decision or decisions by or on behalf of the Council
- 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 <u>the Deputy Chief Executive Officer and</u> 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.
4	30 June 2020	Council resolution	Added requirement for automatic referral of approval of final concepts plans (see 1. Referral to Council)

RMA

Column 1	Column 2	Column 3	Column 4
Positions	Provision	Powers and Functions Delegated	Conditions and Limitations
Director Planning and Building Director Infrastructure and Assets		The powers and functions of the Council pursuant to the RMA and any Regulations made under the RMA.	The delegation does not include the power of delegation pursuant to section 118(1) of the RMA.
Team Leader Infrastructure Development	Part 5 of the RMA	The powers to issue consents in relation to works on, in or under roads	
Construction Management Group Officers (Site Services)	Part 5 of the RMA	The powers to issue consents in relation to works on, in or under roads	
Municipal Building Surveyor	Part 5 of the RMA	The powers to issue consents in relation to works on, in or under roads	
Principal Engineer Infrastructure	Part 5 of the RMA	The powers to issue consents in relation to works on, in or under roads	
Senior Building Surveyor and Contract Manager	Part 5 of the RMA	The powers to issue consents in relation to works on, in or under roads	
Chief Legal Counsel	Section 71 of the RMA	The power to appoint authorised officers	

Planning and Environment Act 1987

Michael Janicke

Michael Kumar

Jayne Thompson

Stephen Vecris

Leah Waller