

Management report to Council

Agenda item 6.3

Update of delegations and Council documents – organisational realignment

Council

Presenter: Keith Williamson, Manager Governance and Legal

29 October 2019

Purpose and background

1. To update delegations and other Council approved documents as a result of changes arising from the organisational realignment carried out by the Chief Executive Officer pursuant to section 94A(1) of the *Local Government Act 1989* (the Act).

Key issues

2. Whilst the Act provides the Chief Executive Officer is responsible for issues that relate to Council staff, the organisational realignment that comes into effect on 11 November 2019 will result in a change of branches, positions and titles that require changes to a number of Council made or endorsed documents including:
 - 2.1. new delegations from Council to various members of staff under the *Road Management Act 2004*, the *Food Act 1984* and the *Environment Protection Act 1970*
 - 2.2. updating the Council's General Delegations Policy and its Delegation Policy for Planning Applications
 - 2.3. amending the membership of its Inner Melbourne Action Plan Implementation Committee to remove the Director City Strategy and Place and appoint the General Manager, Strategy, Planning and Climate Change
 - 2.4. updating its Meeting Procedure Code to refer to the Director Governance in place of the Manager Governance and Legal
 - 2.5. authorising the Director Governance to carry out administrative procedures necessary to enable the Council to carry out its functions under section 223 of the Act.
3. In addition, the opportunity has been taken to remove the requirement in its General Delegations Policy to publish on its website each quarter, a summary of all purchase orders for \$500,000 or more, as this can compromise Council obtaining the best commercial outcomes when tendering for goods, services or works under the Act. The General Delegations Policy with proposed changes is Attachment 2.

Recommendation from management

4. That Council:
 - 4.1. By instrument of delegation sealed by the Council under section 118(1) of the *Road Management Act 2004* (RM Act), delegate to the persons from time to time holding the positions referred to in Attachment 3, its powers and functions as a road authority under the RM Act subject to:
 - 4.1.1. the restrictions contained in section 118(1) of the RM Act and section 98(1) of the *Local Government Act 1989*
 - 4.1.2. compliance with Council's General Delegations Policy.
 - 4.2. By instrument of delegation sealed by the Council under section 58A of the *Food Act 1984* (the Food Act) delegate to:
 - 4.2.1. the person from time to time holding the position of Director Health and Wellbeing, its powers and discretions under Part III (other than its power under section 19(3), 19AA(4)(a) or 19AA(4)(b)), Part IIIB, Part VI and section 46(5) of the Food Act

- 4.2.2. the persons from time to time holding the position of Team Leader – Health and Wellbeing, the power to issue orders under section 19(2) of the Food Act
 - 4.2.3. the persons from time to time holding the positions referred to in Attachment 4, its powers and discretions under Part III of the Food Act in relation to temporary food premises and mobile food premises,
- all subject to:
- 4.2.4. the restrictions contained in section 98(1) of the *Local Government Act 1989*
 - 4.2.5. compliance with Council’s General Delegations Policy.
- 4.3. By instrument of delegation sealed by the Council under section 53M(8) of the *Environment Protection Act 1970* (EPA), delegates to the persons from time to time holding the positions referred to in Attachment 5, its powers under section 53M of the EPA in relation to septic tank systems subject to:
- 4.3.1. the restrictions contained in section 98(1) of the *Local Government Act 1989*
 - 4.3.2. compliance with Council’s General Delegations Policy.
- 4.4. With effect from 11 November 2019:
- 4.4.1. amend the Council’s General Delegations Policy in accordance with the changes identified in Attachment 2
 - 4.4.2. amend the Council’s Delegation Policy for Planning Applications to provide the policy owner is the Director Planning and Building
 - 4.4.3. amend the membership of Council’s Inner Melbourne Action Plan Implementation Committee to remove the Director City Strategy and Place and appoint the General Manager Strategy, Planning and Climate Change
 - 4.4.4. amend the Council’s Meeting Procedure Code to refer to the Director Governance in place of the Manager Governance and Legal
 - 4.4.5. authorise the Director Governance to carry out administrative procedures necessary to enable the Council to carry out its functions under section 223 of the Act.
- 4.5. With effect from 15 November 2019, revoke the Council instruments of delegation 448, CCL-2015-2 and CCL-2018-1.

Attachments:

1. Supporting Attachment (Page 3 of 8)
2. Amended General Delegations Policy (Page 4 of 8)
3. Positions to which Council’s powers and functions as a road authority will be delegated under section 118(1) of the RM Act (Page 6 of 8)
4. Positions to which Council’s powers and discretions will be delegated under section 58A of the Food Act (Page 7 of 8)
5. Positions to which Council’s powers will be delegated under section 53M(8) of the EPA (Page 8 of 8)

Supporting Attachment

Legal

1. The report accurately identifies the relevant legal issues.

Finance

2. There are no financial implications to Council arising from the recommendation contained in this Management Report.

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.

Health and Safety

4. Whilst no direct Occupational Health and Safety issues or opportunities have been identified, the delegations from Council under the Food Act, the RM Act and the EPA enable the administration to enforce these significant Acts.

Stakeholder consultation

5. The process is internal and external stakeholder consultation is not appropriate.

Environmental sustainability

6. The report relates to administrative processes only and no environmental sustainability issues or opportunities have been identified.

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 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

DELEGATIONS POLICY

- 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 Directors/General Managers (or equivalent), in charge of a division	\$1 million
For Branch Managers/Directors (or equivalent), in charge of a branch	\$500,000

~~On a quarterly basis Council will publish on its website, a summary of all purchase orders, for an amount of \$500,000 or more, raised during the quarter.~~

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. 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.]

Positions to which Council's powers, discretions and functions will be delegated under section 118(1) of the RMA

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	

Positions to which Council's powers and functions will be delegated under Part III of the *Food Act* in relation to temporary food premises and mobile food premises

1. Team Leader – Health and Wellbeing
2. Senior Environmental Health Officer
3. Environmental Health Officer

Positions to which Council's powers and functions will be delegated section 53M(8) of the *EPA*

1. Director Health and Wellbeing
2. Team Leader - Health and Wellbeing
3. Senior Environmental Health Officer
4. Environmental Health Officer