

Management report to Council

Agenda item 6.3

Delegated committees of Council

Council

Presenter: Keith Williamson, General Manager Governance and Organisational Development

25 August 2020

Purpose and background

1. The purpose of this report is to create new delegations to delegated committees of Council under the *Local Government Act 2020* (LGA 2020).

Key issues

2. The LGA 2020 requires Council take a number of actions by 1 September 2020. The majority of these actions were resolved by Council at its meeting on 28 July 2020.
3. One of the actions to be taken is for Council to continue the operation of committees of Council currently operating with delegations made under the *Local Government Act 1989* and create new delegations to these committees under the LGA 2020.
4. Section 63 of the LGA 2020 provides for a council to create a delegated committee and section 64 of the LGA 2020, a joint delegated committee in association with other councils. The *Local Government Act 1989* did not provide for joint delegated committees.
5. In addition to recommending new delegations to relevant committees, this report recommends updated terms of reference for and Council's membership of the Inner Melbourne Action Plan Implementation Committee, substituting the CEO for the General Manager Strategy, Planning and Climate Change (the Chair of the Planning Portfolio of the Future Melbourne Committee would remain the Councillor member).
6. The new delegations are an interim step to enable the committees to continue to function and will be subject to review after the Council elections.
7. The Governance Rules and Public Transparency Policy, and the Chief Executive Officer Employment Matters Committee are the subject of separate reports from management.

Recommendation from management

8. That Council:
 - 8.1. Resolves to continue the Future Melbourne Committee, the Gaming Planning Provisions Committee and the Amendment C309 West Melbourne Structure Plan Committee as delegated committees of Council under section 63 of the *Local Government Act 2020* (LGA 2020).
 - 8.2. By instrument of delegation sealed by the Council under section 11(1) of the LGA 2020, delegates to the members of the Future Melbourne Committee, Council's powers, duties and functions pursuant to the LGA 2020 and any other Act in accordance with its existing terms of reference as detailed in Attachment 2 of the management report, subject to:
 - 8.2.1. the delegation not extending to decision making in respect of:
 - 8.2.1.1. governance matters
 - 8.2.1.2. Councillor Code of Conduct and operating protocols
 - 8.2.1.3. Councillor expenses and resources guidelines
 - 8.2.1.4. electoral matters
 - 8.2.2. the restrictions contained in section 11(2) of the LGA 2020.
 - 8.3. By instrument of delegation sealed by the Council under section 11(1) of the LGA 2020, delegates to the members of the Gaming Planning Provisions Committee, Council's powers, duties and functions to make decisions of an advisory nature in respect to planning scheme amendment C307, subject to the restrictions contained in section 11(2) of the LGA 2020 and section 188(2) of the *Planning and Environment Act 1987*.

- 8.4. By instrument of delegation sealed by the Council under section 11(1) of the LGA 2020, delegates to the members of the Amendment C309 West Melbourne Structure Plan Committee, Council's powers, duties and functions to make decisions of an advisory nature in respect to Planning Scheme Amendment C309, subject to the restrictions contained in section 11(2) of the LGA 2020 and section 188(2) of the *Planning and Environment Act 1987*.
- 8.5. Approves the establishment of the Inner Melbourne Action Plan (IMAP) Implementation Committee as a joint delegated committee pursuant to section 64 of the LGA 2020 jointly with the City of Port Phillip, City of Yarra, City of Stonnington and Maribyrnong City Council.
- 8.6. By instrument of delegation sealed by the Council under section 11(1) of the LGA 2020, delegates to the members of the IMAP Implementation Committee, Council's powers and functions as detailed in Attachment 3 of the report from management, subject to the conditions and limitations in section 11 of the LGA 2020.
- 8.7. Adopts the amended terms of reference for the IMAP Implementation Committee as detailed in Attachment 4 of the report from management.
- 8.8. Resolves that the instruments of delegation in paragraphs 8.2, 8.3, 8.4 and 8.6 come into effect on 1 September 2020.
- 8.9. Appoints as voting members of the IMAP Implementation Committee, the persons from time to time holding the positions of:
 - 8.9.1. Chair of Council's Future Melbourne (Planning) Committee
 - 8.9.2. Council's Chief Executive Officer
 - 8.9.3. Mayor and Chief Executive Officer of:
 - 8.9.3.1. the City of Port Phillip
 - 8.9.3.2. the City of Yarra
 - 8.9.3.3. the City of Stonnington
 - 8.9.3.4. the Maribyrnong City Council.

Attachments:

1. Supporting attachment (Page 3 of 16)
2. Future Melbourne Committee Terms of Reference (Page 4 of 16)
3. Inner Melbourne Action Plan Implementation Committee Powers and Functions (Page 10 of 16)
4. Inner Melbourne Action Plan Implementation Committee Terms of Reference (Page 11 of 16)

Supporting Attachment

Legal

1. Section 63 of the LGA 2020 enables Council to establish delegated committees, the successor to special committees under the *Local Government Act 1989*. Section 64 of the LGA 2020 introduces a new concept of a joint delegated committee established by two or more councils. A joint delegated committee must include at least one councillor from each of the participating Councils.
2. Section 11(9) of the LGA 2020 provides that, unless sooner revoked, a delegation made by a council under the *Local Government Act 1989* continues in force until 1 September 2020.

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 direct or indirect 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 to implement process requirements of the LGA 2020, and no stakeholder consultation is required.

Environmental sustainability

7. The report is to implement administrative and process issues arising from the LGA 2020 and no environmental sustainability issues or opportunities arise from the report.

TERMS OF REFERENCE

FUTURE MELBOURNE COMMITTEE

(As revised and adopted by Council on 30 October 2018)

The Future Melbourne Committee terms of reference are grouped into thirteen portfolios being: Planning portfolio, Finance and Governance portfolio, Arts, Culture and Heritage portfolio, Major Projects portfolio, Major Events portfolio, Transport portfolio, Environment portfolio, Prosperous City portfolio, Small Business, Retail and Hospitality portfolio, Knowledge City portfolio, International Engagement portfolio, People City portfolio and Aboriginal City portfolio.

Membership

The Lord Mayor, Deputy Lord Mayor and Councillors are members of the Future Melbourne Committee.

Quorum

The quorum for the Future Melbourne Committee is a majority of its members.

Responsibilities

Matters before the Committee will be considered within the relevant portfolio in accordance with the following allocation of responsibilities.

Items related to Planning portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Statutory planning and building control
- Strategic planning
 - > Structure planning
- Urban design
- Planning scheme amendments
- Noise abatement
- Future Melbourne
- Heritage Planning*
- Innovation Districts
- Community engagement relating to the above.

** When considering matters in relation to 'Heritage Planning', the Deputy Chair assumes the role of Chair.*

Items related to Finance and Governance portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Rates and valuations
- Corporate and financial planning and reporting:
 - > Annual budget and Council works program
 - > Council Plan
 - > Triple bottom line processes and reporting

- Asset management
- Financial and control systems/reporting
- Online services
- Data platforms including open data
- Investment fund and property portfolio
- Continuous improvement
- Subsidiary companies and associated entities:
 - > SMF Investment Management Pty Ltd
 - > Queen Victoria Market Pty Ltd
 - > Citywide Service Solutions Pty Ltd
- Procurement - Tender and contract policies
- Audit
- Disclosure and transparency
- Legal services
- Local Laws
- Parking
- Melbourne Renewable Energy Project
- * Governance matters
- * Councillor Code of Conduct and operating protocols
- * Councillor Expenses and Resources Guidelines
- * Electoral matters
- Community engagement relating to the above.

** The delegation does not extend to decision making in respect to Governance matters, Councillor Code of Conduct and Operating Protocols, the Councillor Expenses and Resources Guidelines and Electoral Matters, where the Committee will make recommendations to Council.*

Items related to Arts, Culture and Heritage portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Arts and arts grants
- Cultural celebrations
- Music:
 - > Melbourne Music Week
- Artistic and creative events and organisations
- Creative spaces
- Public art/streetscapes
- Heritage
- Aboriginal Heritage
- Indigenous arts:
 - > Melbourne Indigenous Arts Festival
- Community engagement relating to the above.

Items related to Major Projects

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Council's major capital works
- Community engagement relating to the above.

Items related to Major Events portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Major events including City of Melbourne Premier Events
- Events industry
- Community engagement relating to the above.

Items related to Transport portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Transport:
 - > Traffic management system
 - > Transport connections (regional and global)
- Cycling
- Urban Freight including Last Kilometre Freight
- Connecting Docklands
- Road Safety
- Walking
- Water transport
- Community engagement relating to the above.

Items related to Environment portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Council Carbon Neutral
- Total Watermark
- Zero Net Emissions:
 - > Public Lighting
 - > Waste and resource recovery
 - > Whole of council sustainability programs
 - > Energy resources
- Climate adaptation and resilience:
 - > Whole of council sustainability programs
 - > Urban Forest and precinct plans
 - > Resilient Melbourne
 - > Climate resilience
- Urban Ecology and Biodiversity
- Open space and parks plans
- Partnerships and alliances e.g. ICLEI, 100 Resilient Cities program, C40

- Community engagement relating to the above.

Items related to Prosperous City portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Business attraction:
 - > Global city alliances (including relationships, trade missions and marketing)
 - > Business Partners Cities Network
 - > Investment attraction
 - > Brand Melbourne*
 - > Liveability ranking
 - > Destination Marketing
 - > Melbourne Office, Tianjin
- Business support:
 - > Business Development Fund
 - > Precincts program
 - > Business Consultation program/business roundtables
- Economic activation:
 - > Conference and convention attraction
 - > Event Partnership Program
 - > Events excluding Major events
 - > Events with a gender alignment*
 - > Precincts (marketing)
 - > Street trading
 - > Night time economy
- Sponsorship
- Community engagement relating to the above.

** When considering matters in relation to 'Brand Melbourne' and 'Events with a gender alignment', the Deputy Chair assumes the role of Chair.*

Items related to Small Business, Retail and Hospitality portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Small business:
 - > Small business grants
- Retail
- Hospitality industry
- Social Enterprise
- Community engagement relating to the above.

Items related to Knowledge City portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Relationships with:

- > Universities
- > Research institutes
- > Technical and further education institutions
- > Registered training organisations
- > Local schools
- Smart City Approach
- City learning:
 - > Libraries and community centres
- Hubs
- Knowledge:
 - > Melbourne Conversations
 - > Accelerator programs
- Start-ups*
- Information technology
- Disruptive technologies*
- Museums
- Education
- Community engagement relating to the above.

** When considering matters in relation to 'Disruptive technologies' and 'Start-ups' are considered, the Deputy Chair assumes the role of Chair.*

Items related to People City portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Family services:
 - > Children's services
 - > Youth
- Community Care:
 - > Aged Care
 - > Disability services
 - > Ethnic services
- Emergency management/services
- Social and affordable housing
- Homelessness
- City safety
- Health and wellbeing:
 - > Community sports
 - > Recreation services
 - > Multiculturalism
 - > Public space (including streetscapes but excluding parklands and trees)
- Diversity and inclusion
- Social policy
- Community grants

- Community engagement relating to the above.

Items related to International Engagement portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- International Students
- Tourism/visitation
- Sister city relationships
- Wayfinding
- Community engagement relating to the above.

Items related to Aboriginal City portfolio

The powers, duties and functions directly relating or ancillary to the following primary responsibilities:

- Aboriginal Melbourne
- Community engagement relating to the above.

Inner Melbourne Action Plan Implementation Committee

Powers and functions

To exercise Council's functions and powers to perform Council's duties in relation to the fulfilment of the Committee's purpose and objectives as stated in the *Inner Melbourne Action Plan Implementation Committee – Terms of Reference* (Terms of Reference) adopted by Council on 25 August 2020, and for those purposes:

1. to enter into contracts, and to incur expenditure within the limits of the approved budget
2. to do all things necessary to be done for, or in connection with, the performance of those functions, duties and powers, including:
 - 2.1. develop and prioritise an annual Implementation Program of the *Inner Melbourne Action Plan 2016-2026* (IMAP 2016-26) goals, to be updated and approved annually
 - 2.2. oversee implementation of the IMAP 2016-26 in accordance with the agreed Implementation Program
 - 2.3. make recommendations to Council and other IMAP member Councils on budget allocations (refer Terms of Reference) to effect the implementation of the IMAP 2016-26
 - 2.4. progress individual initiatives in accordance with the annual Implementation Program
 - 2.5. review and recommend to the member Councils adjustments to the IMAP 2016-26, the annual Implementation Program and the Committee's governance and membership as required
 - 2.6. monitor and report annually to the member Councils on the progress of the implementation of the IMAP 2016-26 program and any updates
 - 2.7. perform all other functions that are set out in the Terms of Reference that are not otherwise listed above.

Exceptions, conditions and limitations

The Committee is not authorised by this Instrument to enter into any contracts, or incur expenditure, for an amount which exceeds the Committee's budget as approved by the IMAP member Councils in accordance with the Terms of Reference.

Terms of Reference

INNER MELBOURNE ACTION PLAN IMPLEMENTATION COMMITTEE

Committee

The Inner Melbourne Action Plan (IMAP) Implementation Committee (the **Committee**) is constituted as a Joint Delegated Committee in accordance with section 64 of the *Local Government Act 2020* (the Act).

This delegation extends previous delegations to the Committee to facilitate the implementation of the *Inner Melbourne Action Plan 2016-2026* (IMAP 2016-26) and any subsequent reviews under revised legislation.

Preamble

The City of Melbourne, City of Port Phillip, City of Stonnington, City of Yarra and Maribyrnong City Council have each resolved to establish identically constituted Instrument of Delegations to establish the Committee as a Joint Delegated Committee in accordance with section 64 of the Act for the purposes set out in these Terms of Reference.

The five Councils will collaborate on the Committee to provide a coordinated decision-making process to facilitate the implementation of the IMAP 2016-26 as adopted by member Councils in June 2016 – including any updates.

The name of the Committee will be “Inner Melbourne Action Plan Implementation Committee”.

Each of the member Councils will endeavour to ensure that its budget makes provision for the resources reasonably necessary to deliver on commitments agreed by the Committee. The budget of each member Council would be specific to meeting the IMAP 2016-26 actions and advocacy relevant to that respective municipality. The recommended budget allocation is based on the perceived benefits and/or capacity of each member Council.

Any of the member Councils may resolve to withdraw from the Committee at any time, which withdrawal will be effective immediately upon notification to the member Councils. The Committee will continue to operate and subsequently modify this Terms of Reference to reflect the altered membership structure.

Purpose and Objectives

The purpose and objectives of the Committee are to:

- oversee the implementation of regionally based strategies and advocacy identified in IMAP 2016-26 as adopted by member Councils in June 2016, and any subsequent reviews
- develop regional actions and deliver outcomes which help ensure the continued development and liveability of the inner region of Melbourne into the future
- bring together key government stakeholders to develop and deliver regionally based actions
- provide regional decision-making necessary to implement agreed strategies and actions, which is binding on the member Councils
- provide impetus for the coordination and commitment of all partner organisations.

Context

In fulfilling its purpose and objectives, the Committee will have regard to:

- the overarching governance principles in section 9(2) of the Act
- legislative requirements generally
- available resources
- existing initiatives and programmes in the Region
- economic, social and environmental values
- respecting individual differences between communities

Role and Functions

The Committee will, with respect to:

Programming

- Review and approve updates to the IMAP 2016-26 in the first year of a new four year Council term, which will underpin the activities of the Committee during that term.
- Develop and approve an annual Implementation Program budget to implement strategies stated in the IMAP 2016-26 and its subsequent reviews. This Program is to be updated and approved annually by the Committee.
- Approve individual "Project Briefs" developed to progress specific actions in accordance with the Committee's approved Implementation Program.
- Ensure the execution of the Implementation Plan meets the planned activities over the four year Council term; monitor the progress of individual actions.
- Establish the IMAP Leadership Forums (Executive Forum and the Annual Forum) to provide strategic input to the identification of regional priorities and development of the annualised Implementation Program.

Budgeting

- On or before 30 November each year, prepare a draft annual budget for the next financial year for submission to the Committee for approval. The annual approval of the Implementation Program must be carried unanimously by the members on the Committee.
- In consultation with the members on the Committee, and by reference to the budget above; determine the amount that each Member Council will contribute annually for the cost of the Committee's functions, coordination and administration.
- On or before 31 December each year, make recommendations to the member Councils of budget allocations required to effect the implementation of specific Committee strategies and actions for consideration in each Member Council's annual budgeting process.
- Be authorised to advocate to, and seek funding from, external public entity sources for the Committee's strategies and actions.

Procedures Protocol

- Regularly review and adopt the *IMAP Operational Protocol*, the Committee's governance procedures, to:
 - provide the basis for the working relationships between the member Councils in respect of matters within the scope of these Terms of Reference (including the role, relationships and operational processes of the Leadership Forums and the IMAP Executive Officer)
 - assist the resolution of any issues that arise between member Councils in respect of the IMAP 2016-26 and its implementation.
- Provide advice, from time to time, to the member Councils on the governance arrangements of the Committee.
(See also Proceedings of the Committee below.)

Admission of New Members

Additional neighbouring Councils can be admitted as member Councils (new Council) upon the recommendation of the Committee and following approval by resolution of all existing member Councils, on the basis that:

- the new Council:
 - establishes a Joint Delegated Committee under section 64 of the Act which adopts the Instrument of Delegations, Schedule and Terms of Reference for the Committee
 - agrees to adopt the provisions of the existing IMAP 2016-26 and any future reviews
 - agrees to provide annual funding through their budget process on the same basis as the other member Councils on the Committee
- where possible, the new Council commences their membership at the start of a financial year with approved funding in place
- unless resolved otherwise by a majority of the existing member Councils, the new Council is entitled to the benefit of all actions and projects already completed or in progress by the Committee.

Structure and Membership

The Committee consists of the following member Councils:

- City of Melbourne
- City of Port Phillip
- City of Stonnington
- City of Yarra
- Maribyrnong City Council.

The governing body of the Committee will consist of the following voting members from the Member Councils:

- one Councillor of the relevant member Council
- the Chief Executive Officer of the relevant member Council.

Members

The Inner Melbourne Action Plan Implementation Committee will therefore comprise the following ten voting members:

- **City of Melbourne:**
 - Chair, Future Melbourne (Planning) Committee
 - Chief Executive Officer.
- **City of Port Phillip:**
 - Mayor
 - Chief Executive Officer.
- **City of Stonnington:**
 - Mayor
 - Chief Executive Officer.
- **City of Yarra:**
 - Mayor
 - Chief Executive Officer.
- **City of Maribyrnong:**
 - Mayor
 - Chief Executive Officer.

Associates

The Committee will invite representatives from Government departments and public agencies to attend and participate as 'Associates'. Associate representatives will not be members of the Committee or entitled to vote, but can participate in any discussion. The Associate representatives may change from time to time and include:

- Two representatives from the Department of Environment, Land, Water and Planning.
- One representative each (total of 3) from the Department of Jobs, Precincts and Regions, Victorian Planning Authority, and Department of Transport.

Proceedings of the Committee

The proceedings of the Committee will be in accordance with:

- the Act
- these Terms of Reference
- the *IMAP Operational Protocol*
- the Governance Rules of the meeting's host Council.

In the event of any inconsistency between the documents listed above, the inconsistency will be resolved according to the order in which those documents are listed.

Voting

- A quorum for the Committee will be six (6) members, which is a majority of the persons appointed to the Committee. At least three members present must be councillor representatives.
- Voting will be by a show of hands.
- For a motion to be successful, it must be carried with the support of the majority of members present representing at least four of the Councils listed above; excepting that the annual approval of the Implementation Program must be carried unanimously at a meeting with all Councils represented.

Appointing the Chairperson

The Chairperson shall be appointed from the councillor members of the Committee on a rotational basis for each meeting. If the Chairperson of the Council hosting the quarterly meeting is absent for all or part of a Committee meeting, the Committee members will appoint a Chairperson by majority resolution from those Councillor members present.

Meeting Dates

The Committee will set the times and dates for its meetings, and shall meet at least quarterly.

Conflict of Interest

The conflict of interest provisions for members of delegated committees prescribed by the Act and the Governance Rules of the meeting's host Council apply to members of the Committee.

Reporting

The business of the Committee shall be recorded in Minutes that shall be:

- distributed to each of the member Councils
- included in the Register of Minutes kept by the Committee
- made available for public inspection through each of the member Councils.

The Committee shall provide an Annual Report to the member Councils.

Administration

The Committee will nominate a host Council to manage administration and staff support on behalf of the Committee. This host arrangement will remain until the Committee resolve to vary or revoke it.

The IMAP Executive Officer will be appointed by the CEO of the host Council, in conjunction with the Executive Forum, to provide governance, advocacy and administrative support to the Committee.

The IMAP Executive Officer will undertake a Co-ordination/Project Management role to:

- ensure the timely and coordinated delivery of the overall annual program
- provide the day to day oversight of the Committee's program and specific actions
- support the communications and advocacy work of the Committee.

The IMAP Executive Officer will provide to the Committee:

- quarterly briefings at meetings
- six monthly progress reports on the Implementation Program.

Leadership Forums

The Committee will establish two Leadership Forums:

1. an Executive Forum consisting of the Chief Executive Officers of each of the member Councils
2. an Elected Representatives Forum of all Councillors from the member Councils [Annual Forum].

The Leadership Forums will meet as often as determined by the Committee, with the role of the Forums being to:

1. make recommendations to the Committee on determining and driving strategic regional priorities
2. provide advice to the Committee on annual priorities for the review of the Implementation Program
3. facilitate advocacy, liaison, partnerships and co-ordination with key stakeholders, including identifying project synergies and opportunities arising from Federal, State and Local Government programs
4. receive Plan updates, progress reports and an Annual Report from the Committee on the Implementation Program.

Proceedings of Leadership Forum meetings will be recorded by minutes for formal tabling and consideration by the Committee.

Project Teams

The Committee is able to establish Project Teams for the purpose of undertaking individual project actions. The Project Teams are formulated to develop the Project Brief and deliver individual actions in response to the Implementation Program.

The composition and funding of the Project Teams are needs based and approved by the Committee as part of its Implementation Plan budget approval process.

The funding for specific project actions (including external funding where obtained) can be centralised in a member Council's account (ie the 'project lead' Council or the host Council) or, alternatively, each partner Council can make project payments as required. The method of administering funding will be determined on an individual project needs basis.

Day to day co-ordination and integration of the Project Teams is managed by the IMAP Executive Officer.

Individual 'Project Briefs' must be approved by the Committee before any funding is determined.