



Cardinia

MINUTES OF SPECIAL MEETING OF GENERAL COUNCIL

MONDAY, 30 MARCH 2020

MINUTES OF SPECIAL MEETING OF GENERAL COUNCIL

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday, 30 March 2020
The meeting commenced at 6:31pm

PRESENT: Mayor, Jeff Springfield, Chairman

Councillors Michael Schilling, Carol Ryan, Collin Ross, Graeme Moore, Leticia Wilmot

Messrs Carol Jeffs (CEO), Jack Coogan (GO)

OPENING PRAYER

Almighty God we humbly request that you bestow your blessings upon this Council, direct and prosper our deliberations to the advancement of your glory and to the betterment of the peoples of Cardinia Shire. Amen.

ACKNOWLEDGEMENT OF TRADITIONAL LANDOWNERS

The Cardinia Shire Council respectfully acknowledged that we are on the traditional land of the Bunurong and Wurundjeri people.

COUNCIL 'IN CAMERA'

Moved Cr Graeme Moore Seconded Cr Carol Ryan

That the meeting be closed to members of the public (as provided for by Clause 89(2)(l) of the Local Government Act) due to the current health and safety concerns relating to the COVID-19 pandemic.

The Mayor noted that 7 days public notice of the meeting had not been publicly given due to the short period of time between calling of the meeting and the meeting date and asked for this to be recorded in the minutes of the meeting.

APOLOGIES: Councillors Ray Brown, Jodie Owen and Brett Owen.

DECLARATION OF PECUNIARY AND OTHER INTERESTS

Nil.

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1 INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER

FILE REFERENCE INT2024917

RESPONSIBLE GENERAL MANAGER Tom McQualter

AUTHOR Jack Coogan

RECOMMENDATION

That Council execute the 30 March 2020 Instrument of Delegations to the Chief Executive Officer.

Attachments

1 Instrument of Delegation - Council to the Chief Executive Officer 4 Pages

EXECUTIVE SUMMARY

Council should review and amend the various delegations in place and to execute new Instruments of Delegation when required to ensure best practice governance is maintained.

BACKGROUND

Regular delegation review provides for an opportunity to appropriately determine which Council powers, duties and functions are to be delegated to personnel in order for the daily operation of Council.

Council is a statutory entity composed of its members (i.e. the Councillors) and it is able to do only those things which it is authorised by law to do. The sources of council authority can be summarised as:

- power to do things which a "natural" person can do - in particular, the power to enter into contracts;
- powers conferred by provisions of 77 separate acts and regulations, such as the Local Government Act 1989 and the Planning and Environment Act 1987;

Because Council is not a "natural" person, it can act in only one of two ways: by resolution at a properly constituted Council Meeting or through others acting on its behalf through delegation.

The power of a Council to act by resolution is set out in section 3(5) of the Local Government Act -

"(5) Where a Council is empowered to do any act, matter or thing, the decision to do the act, matter or thing is to be made by a resolution of the Council."

Most Council decisions however are not made at Council meetings. Effective functioning of the Council would not be possible if they were. Instead, most decision-making power is allocated by formal delegations.

The Local Government Act 1989, as well as other legislation, makes express provision for the appointment of delegates to act on behalf of Councils. There are two basic forms of delegation under the Local Government Act 1989, delegations to Committees and delegations to members of staff, including the Chief Executive Officer.

The proposed increase to the CEO's financial delegation has been made to better ensure the efficient running of Council's daily operations if an urgent need arises.

POLICY IMPLICATIONS

Nil.

RELEVANCE TO COUNCIL PLAN

Nil.

CONSULTATION/COMMUNICATION

The procurement staff of Cardinia Shire Council has been consulted in the development of this instrument of delegation.

FINANCIAL AND RESOURCE IMPLICATIONS

Nil.

CONCLUSION

Council is advised to delegate its power to be able to provide daily services throughout the community.



Cardinia Shire Council

Instrument of Delegation

to

The Chief Executive Officer

Instrument of Delegation

In exercise of the power conferred by s 98(1) of the *Local Government Act 1989 (the Act)* and all other powers enabling it, the Cardinia Shire Council (**Council**) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation,

AND declares that

1. this Instrument of Delegation is authorised by a Resolution of Council passed on 30 March 2020;
2. the delegation
 - 2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 2.2 is subject to any conditions and limitations set out in the Schedule;
 - 2.3 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
 - 2.4 remains in force until Council resolves to vary or revoke it.
3. On the coming into force of this Instrument of Delegation each delegation under the Instrument of Delegation dated 21 August 2017 are revoked.
4. The member of Council staff occupying the position or title of or acting in the position of Chief Executive Officer may delegate to a member of Council staff any of the powers (other than the power of delegation conferred by s 98(3) of the Act or any other powers not capable of sub-delegation) which this Instrument of Delegation delegates to him or her.

The common seal of **Cardinia Shire Council** was hereto affixed in the presence of:

Councillor

Chief Executive Officer

SCHEDULE

The power to

1. determine any issue;
2. take any action; or
3. do any act or thing

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

Conditions and Limitations

The delegate must not determine the issue, take the action or do the act or thing

5. if the issue, action, act or thing is an issue, action, act or thing which involves
 - 5.1 awarding a contract exceeding the value of \$1,000,000;
 - 5.2 making a local law under Part 5 of the Act;
 - 5.3 approval of the Council Plan under s 125 of the Act;
 - 5.4 adoption of the Strategic Resource Plan under s 126 of the Act;
 - 5.5 preparation or adoption of the Budget or a Revised Budget under Part 6 of the Act;
 - 5.6 adoption of the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act;
 - 5.7 determining pursuant to s 37 of the Act that an extraordinary vacancy on Council not be filled;
 - 5.8 exempting a member of a special committee who is not a Councillor from submitting a return under s 81 of the Act;
 - 5.9 appointment of councillor or community delegates or representatives to external organisations; or
 - 5.10 the return of the general valuation and any supplementary valuations;
6. if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution;
7. if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
8. if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a
 - 8.1 policy; or

- 8.2 strategy
adopted by Council; or
- 9. if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of s 98(1)(a)-(f) (inclusive) of the Act or otherwise; or
- 10. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.

1 INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER

Moved Cr M Schilling Seconded Cr L Wilmot

That Council execute the 30 March 2020 Instrument of Delegations to the Chief Executive Officer.

Cd.

2 EMERGENCY INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER

FILE REFERENCE INT2024995

RESPONSIBLE GENERAL MANAGER Tom McQualter

AUTHOR Jack Coogan

RECOMMENDATION

That Council execute the Emergency Instrument of Delegation to the Chief Executive Officer (CEO).

Attachments

1 Emergency Instrument of Delegation - Council to the Chief Executive Officer 4 Pages

EXECUTIVE SUMMARY

The purposes of the Emergency Instrument of Delegations is to elevate the CEO's power's in the event of emergency and/or extraordinary circumstances, specifically in the event that Council is not able to function under its legislated duty and unable to resolve on matters as stipulated under section 90 of the Local Government Act 1989 (the Act).

BACKGROUND

Section 5 of the Act sets the provision that a Council is empowered to do any act, matter or thing if the decision to do so was made under a resolution of Council.

The resolution must be:

- a. A resolution made at an ordinary or special meeting of Council;
- b. A resolution made at a meeting of a special committee;
- c. The exercise of a delegation made under section 98 of the Act.

A Councillor must be physically present in the space the meeting is occurring for their entitlement under section 90(1) of the Act to be binding. Therefore, this proposed instrument of delegation has been created as a precautionary measure in the event that Council is unable to meet to ensure Council business can continue as required.

POLICY IMPLICATIONS

Nil.

RELEVANCE TO COUNCIL PLAN

1.7 Minimised impact of emergencies

1.7.1 Implement plans that support people in times of emergency.

1.7.2 Implement effective plans and procedures that minimise the impact of all emergencies in the Shire.

1.7.3 Protect against the impacts of emergencies through effective preparation and community planning and education.

CONSULTATION/COMMUNICATION

Nil.

FINANCIAL AND RESOURCE IMPLICATIONS

Nil.

CONCLUSION

Council is advised to delegate its power to be able to provide daily services throughout the community in the event that an emergency/ extraordinary circumstances arise.



Cardinia Shire Council

Emergency Instrument of Delegation

to

The Chief Executive Officer

Instrument of Delegation

In exercise of the power conferred by s 98(1) of the *Local Government Act 1989 (the Act)* and all other powers enabling it, the Cardinia Shire Council (**Council**) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation,

AND declares that

1. this Instrument of Delegation is authorised by a Resolution of Council passed on 30 March 2020;
2. the delegation
3. will only come into force when emergency and/or extraordinary circumstances arise which limit the Council's ability to meet with quorum under the statutory provisions set in section 90 of the Local Government Act 1989;
 - 3.1 is subject to any conditions and limitations set out in the Schedule;
 - 3.2 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
 - 3.3 remains in force until a quorum of Council is able to resolve on a matter under the statutory provisions of section 90 of the Local Government Act 1989; or
 - 3.4 until Council resolves to vary or revoke this Instrument of Delegation.
4. The member of Council staff occupying the position or title of or acting in the position of Chief Executive Officer may delegate to a member of Council staff any of the powers (other than the power of delegation conferred by s 98(3) of the Act or any other powers not capable of sub-delegation) which this Instrument of Delegation delegates to him or her.
5. Any financial decision over \$1,000,000 made under this Instrument of Delegation will be kept in a register for Council to formally note at the next possible meeting of the Council.

The common seal of **Cardinia Shire Council** was hereto affixed in the presence of:

Councillor

Chief Executive Officer

SCHEDULE

The power to

1. determine any issue;
2. take any action;
3. do any act or thing; including
 - 3.1 appointing an acting Chief Executive Officer

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

Conditions and Limitations

The delegate must not determine the issue, take the action or do the act or thing

6. if the issue, action, act or thing is an issue, action, act or thing which involves
 - 6.1 awarding a contract exceeding the value of \$5,000,000;
 - 6.2 making a local law under Part 5 of the Act;
 - 6.3 approval of the Council Plan under s 125 of the Act;
 - 6.4 adoption of the Strategic Resource Plan under s 126 of the Act;
 - 6.5 preparation or adoption of the Budget or a Revised Budget under Part 6 of the Act;
 - 6.6 adoption of the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act;
 - 6.7 determining pursuant to s 37 of the Act that an extraordinary vacancy on Council not be filled;
 - 6.8 exempting a member of a special committee who is not a Councillor from submitting a return under s 81 of the Act;
 - 6.9 appointment of councillor or community delegates or representatives to external organisations; or
 - 6.10 the return of the general valuation and any supplementary valuations;
7. if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution;
8. if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
9. if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a

- 9.1 policy; or
- 9.2 strategy
adopted by Council; or
- 10. if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of s 98(1)(a)-(f) (inclusive) of the Act or otherwise; or
- 11. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.

2 EMERGENCY INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER

Moved Cr M Schilling Seconded Cr L Wilmot

That Council execute the Emergency Instrument of Delegation to the Chief Executive Officer (CEO).

Cd.

3 INSTRUMENT OF DELEGATION TO THE TOWN PLANNING COMMITTEE

FILE REFERENCE INT2025780

RESPONSIBLE GENERAL MANAGER Tom McQualter

AUTHOR Jack Coogan

RECOMMENDATION

That Council execute the 30 March 2020 Instrument of Delegation to the Town Planning Committee.

Attachments

1 Instrument of Delegation to the Town Planning Committee 4 Pages

EXECUTIVE SUMMARY

Council ought to review the various delegations in place and to execute new Instruments of Delegation where required.

BACKGROUND

A minor amendment is proposed to include an explicit clause specifying the actions if the Town Planning Committee was not able to meet its delegated duties.

“If a matter is unable to be referred to the Town Planning Committee due to an urgency in making a decision on a planning matter (including but not limited to the application is over the allotted statutory days or no meetings are scheduled due to the Christmas period or when the committee is unable to fulfil quorum under section 91(3A) of the Local Government Act 1989 due to emergency or extraordinary circumstances) the following procedure will be followed:”.

POLICY IMPLICATIONS

Nil.

RELEVANCE TO COUNCIL PLAN

Nil.

CONSULTATION/COMMUNICATION

Nil.

FINANCIAL AND RESOURCE IMPLICATIONS

Nil.

CONCLUSION

The additional clause proposed is to further stipulate to the general public the course of actions to be undertaken if the committee was not able to hold a meeting.



Instrument of delegation to Town Planning Committee

March 2020

Instrument of delegation

Cardinia Shire Council (**Council**) delegates to the committee established by resolution of Council passed on 8 April 2002 and known as the "Town Planning Committee" (**the Committee**), the powers, discretions and authorities set out in the Schedule, and declares that:

1. this Instrument of Delegation is authorised by a resolution of Council passed on 30 March 2020;
2. the delegation:
 - 2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 2.2 remains in force until Council resolves to vary or revoke it; and
 - 2.3 is to be exercised in accordance with the exceptions, conditions and limitations set out in the Schedule and with the guidelines or policies which Council from time to time adopts; and
3. all members of the Committee have voting rights.
4. Revoke the instrument of delegations executed on 21 August 2017.

The common seal of **Cardinia Shire Council** was hereto affixed in the presence of:

Councillor

Chief Executive Office

SCHEDULE

Purpose

To exercise Council's powers, discretions and authorities to perform Council's functions under the *Planning and Environment Act 1987* in accordance with relevant policies and guidelines of the Council and to do all things necessary or convenient to be done for or in connection with the performance those functions, duties and powers.

Exceptions, conditions and limitations

The Committee is not authorised by this Instrument to exercise the powers which, under section 86 of the *Local Government Act 1989* or section 188 of the *Planning and Environment Act 1987*, cannot be delegated to the Committee.

Decision Guidelines for Planning Staff

Irrespective of the delegations to staff made under the Planning and Environment Act the following matters are required to be placed before the Town Planning Committee or Council for a decision:

Planning permits.

- An application subject of a previous application that raised significant community interest.
- An application with four or more objections
- An application which raises matters which are in conflict with planning policy and may set a significant precedent which may be deemed to be planning policy.
- An application which involves a reduction in car parking which does not meet rates agreed to by council in an adopted policy, strategy or guidelines.
- An application for a major commercial development
- An application where the recommendation is to refuse an application, unless the proposal is prohibited under the planning scheme, or where a referral authority objects to the issue of a permit
- An application where a Councillor has requested for a matter to be reported to council/committee.
- An application lodged by Council or on behalf of Council unless the works are of a minor nature where no objections have been received.
- A significant amendment to any application previously approved by the Council or Committee

Planning Scheme Amendments

- A decision to seek authorisation to prepare a planning scheme amendment.
- A decision to refer submissions to an independent panel for consideration.
- A decision to adopt or abandon a planning scheme amendment (must be a council decision).

Other Planning Matters

- A request to cancel a planning permit.
- Lodgement of an application to the Supreme Court.
- New Planning Policies or Guidelines.
- Response to State Government on planning policy.

Exceptions to Guidelines

If a matter is unable to be referred to the Town Planning Committee due to an urgency in making a decision on a planning matter (including but not limited to the application is over the allotted statutory days or no meetings are scheduled due to the Christmas period or when the committee is unable to fulfil quorum under section 91(3A) of the Local Government Act 1989 due to emergency or extraordinary circumstances) the following procedure will be followed:

The matter will be reported in the weekly Bulletin to councillors. Councillors will be advised of the details of the application, any objections received consideration of main issues and a draft determination will be provided for consideration.

Councillors will be invited to submit any comments they may have regarding the application before a decision is made under delegation.

It is acknowledged that these decision guidelines do not affect VicSmart applications that are exempt from these guidelines

Information to be submitted with an application and what council can consider is pre-set the Chief Executive Officer of the council or delegate decides the application.

3 INSTRUMENT OF DELEGATION TO THE TOWN PLANNING COMMITTEE

Moved Cr M Schilling Seconded Cr L Wilmot

That Council execute the 30 March 2020 Instrument of Delegation to the Town Planning Committee.

Cd.

4 COVID-19 FINANCIAL STRATEGIES

FILE REFERENCE INT2025855

RESPONSIBLE GENERAL MANAGER Tom McQualter

AUTHOR Jack Coogan

RECOMMENDATION

That Council:

1. Implements the following support package for small businesses:
 - a. An immediate 3 month (25%) rebate on fees for Food Act registrations
 - b. An immediate 3 month (25%) rebate on Street Trading permits
 - c. Provision of 3 month rent deferral to commercial tenants of Council owned buildings who have been disrupted by COVID-19
 - d. Extension of Council's hardship policy to property rates on Commercial properties
 - e. Development and promotion of online tools to support businesses to develop e-commerce online services
 - f. Development of a reactivation program to assist traders once the crisis has passed
2. Consider the potential financial impacts of COVID19 within the draft 2020/21 budget including any further provisions to support local community and businesses.
3. Advocate on behalf of our community for the State and Federal governments to provide rate relief in some form to help local communities and businesses.

Attachments

Nil.

EXECUTIVE SUMMARY

The proposed changes are proposed to Council to assist the community during the COVID-19 pandemic. These proposals are considered a first stage of relief with consideration of further and stronger measures to be introduced as the broader impacts of COVID-19 become known

BACKGROUND

The outbreak of COVID-19 is a new, complex and rapidly evolving challenge with extensive health impacts. Cases in Australian are quickly increasing in number, with medical advice that the Coronavirus will continue to rapidly move through the Australian community.

The COVID-19 outbreak not only affects people's health and health systems, it is also having significant economic implications. A range of small businesses are now closed on Government directive.

In response to the current economic challenges being experienced by our local businesses a number of measures are being considered as part of an economic support package. The package presented for consideration is based on Council's role under the *Local Government Act 1989* and Cardinia Shire Council financial context.

Council's role is implicit in Part 1A of the *Local Government Act 1989* – S3c (2), which states “*in seeking to achieve its primary objective, a Council must have regard to the following facilitating objectives:*

- (a) to promote the social, economic and environmental viability and sustainability of the municipal district;*
- (d) to promote appropriate business and employment opportunities.”*

Both the State and Federal Governments have introduced significant economic assistance to Australians which is needed and strongly supported by Council. Council also wishes to play a role in assisting Australians proportionate to its size. Council recognises that cash flow will be a pressing issue for our small business community in the coming months and in response have put together a package of relief options for consideration that provides direct support and some need financial relief.

The package includes:

- a. An immediate 3 month (25%) rebate on fees for Food Act registrations
- b. An immediate 3 month (25%) rebate on Street Trading permits
- c. Provision of 3 month rent deferral to commercial tenants of Council owned buildings
- d. Extension of Council's hardship policy to property rates on Commercial properties
- e. Development and promotion of online tools to support businesses to develop e-commerce online services
- f. Development of a reactivation program to assist traders once the crisis has passed

Council will also further investigate options for financial relief and assistance through the 2020/21 budget and advocate to State and Federal governments for broader rate relief for our community.

POLICY IMPLICATIONS

Nil.

RELEVANCE TO COUNCIL PLAN

1.7 Minimised impact of emergencies

1.7.1 Implement plans that support people in times of emergency.

1.7.2 Implement effective plans and procedures that minimise the impact of all emergencies in the Shire.

1.7.3 Protect against the impacts of emergencies through effective preparation and community planning and education.

CONSULTATION/COMMUNICATION

Nil.

FINANCIAL AND RESOURCE IMPLICATIONS

It is unclear exactly what the financial and resource implications of COVID-19 will be on Council operations and the Victorian and Australian economies at this time.

The financial implications of the options presented in this report are expected to be no greater than \$500,000. However, these measures should only be considered as the first stage and further programs and policies could well be adopted by Council in the future.

In addition to these impacts, it is expected that Council's revenues will be severely impacted in the period from March through to June which will have significant impacts on Council's 2020 financial year results and future budgets.

CONCLUSION

That Council consider the proposed strategies to assist the community during the current COVID-19 pandemic.

4 COVID-19 FINANCIAL STRATEGIES

Moved Cr M Schilling Seconded Cr L Wilmot

That Council:

1. Implements the following support package for small businesses:
 - a. An immediate 3 month (25%) rebate on fees for Food Act and Public Health and Wellbeing Act registrations, for businesses impacted by mandatory closures of premises, or mandatory changes to the operations of their businesses
 - b. An immediate 3 month (25%) rebate on Street Trading permits, where outdoor dining can no longer occur
 - c. Provision of 3 month rent deferral to commercial tenants of Council owned buildings who have been disrupted by COVID-19
 - d. Extension of Council's hardship policy to property rates on Commercial properties
 - e. Development and promotion of online tools to support businesses to develop e-commerce online services
 - f. Development of a reactivation program to assist traders once the crisis has passed
2. Consider the potential financial impacts of COVID19 within the draft 2020/21 budget including any further provisions to support local community and businesses.
3. Advocate on behalf of our community for the State and Federal governments to provide rate relief in some form to help local communities and businesses.

Cd.

Meeting closed at 6:34pm

Minutes Confirmed
Chairman