

## 6.3.2 Appointment of the Town Planning Committee

**File Reference:** Nil.  
**Responsible GM:** Tom McQualter  
**Author:** Jack Coogan

### Recommendation(s)

In exercise of the powers conferred by s 63 of the Local Government Act 2020 (the Act) and s 188 of the Planning and Environment Act 1987, Council resolves that:

1. From the date of this resolution, there be established as a delegated committee, the Town Planning Committee.
2. The purposes of the Committees established by this resolution is to exercise Council's powers, discretions and authorities and perform Council's functions under the Planning and Environment Act 1987 in accordance with relevant policies and guidelines of Council
3. The members of the Town Planning Committee are the whole number of Councillors.
4. The Committee is required to meet at the intervals set annually by the Council.
5. The Committee is required to report to Council at the first available Council Meeting
6. The Chairperson of the Planning Committee is the Mayor of the day.
7. A quorum for the Town Planning Committee is a whole number that is an absolute majority, which is the number of members that is greater than half the total number of members of the Committee.
8. There be delegated to the Town Planning Committee the powers discretions and authorities set out in the attached Instrument of Delegation (the Instrument).
9. The Instrument:
10. comes into force immediately the common seal of Council is affixed to the Instrument;  
and
11. remains in force until Council determines to vary or revoke it.
12. The powers discretions and authorities conferred on the Town Planning Committee by the Instrument must be exercised in accordance with the delegations and limitations set out in the Instrument and with any guidelines or policies Council may from time to time adopt.
13. The Instrument be sealed.

### Attachments

1. Instrument of Delegation Town Planning Committee August 2020 [6.3.2.1 - 1 page]

### Executive Summary

To create the Town Planning Committee as a delegated Committee under the provisions of the Local Government Act 2020.

### Background

Under the provisions of the Local Government Act 2020 the delegations to any Committees established under the provisions of the Local Government Act 1989 cease to have effect on and from 1 September 2020.

As the Council wishes to continue to have a Town Planning Committee established it is necessary to appoint this Committee and delegate appropriate powers to it under the

provisions of Section 63 of the Local Government Act 2020 and Section 188 of the Planning and Environment Act 1987.

### **Policy Implications**

It has been the Council's practice for many years to have a Town Planning Committee consisting of the whole Council to consider matter under the Planning and Environment Act, it is recommended that Council continues that practice.

### **Relevance to Council Plan**

Appointing the Town Planning Committee in in keeping with the Council Plan goal of having open governance and embracing and demonstrating effective governance and transparency.

### **Climate Emergency Consideration**

Nil.

### **Consultation/Communication**

No community consultation has been undertaken regarding this matter.

### **Financial and Resource Implications**

Nil.

### **Conclusion**

It is appropriate for the Council to create the Town Planning Committee as a delegated committee under the provisions of the Local Government Act 2020 and delegate to the Committee the Council's powers under the Planning and Environment Act 1987.

## **Cardinia Shire Council Instrument of Delegation Town Planning Committee**

Cardinia Shire Council (**Council**) delegates to each person who is from time to time appointed as a member of the committee established by resolution of Council passed on 17 August 2020 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 17 August 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.

The Common Seal of the  
Cardinia Shire Council was  
hereto affixed in the presence of:

Councillor

Chief Executive Officer

### **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 s 11(2) of the *Local Government Act 2020* or s 188 of the *Planning and Environment Act 1987*, cannot be delegated to the Committee.

## 6.3.3 Instrument of Delegation to the Chief Executive Officer

**File Reference:** Nil.  
**Responsible GM:** Tom McQualter  
**Author:** Jack Coogan

### Recommendation(s)

That Council execute the 17 August 2020 Instrument of Delegations to the Chief Executive Officer.

### Attachments

1. Instrument of Delegation - Council to CEO 17 August 2020 [6.3.3.1 - 4 pages]

### Executive Summary

Changes incoming with the Local Government Act 2020 have altered the provisions in which delegations can be made and the restrictions that the delegations can apply. The new proposed instrument is aimed to rectify the inconsistencies that would arise with the transition from the Local Government Act 1989 to the 2020 Act.

### Background

Section 11 of the Local Government Act 2020 will come into force on 1 September 2020 and will invalidate the previous delegations made on 30 March 2020., therefore the proposed instrument is required to ensure Council meets it's legal obligations in everyday activities.

### Policy Implications

If executed this instrument would revoke and supersede the previous version from 30 March 2020.

### Relevance to Council Plan

Nil.

### Climate Emergency Consideration

Nil.

### 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.





**Cardinia Shire Council**

**Instrument of Delegation**

**to**

**The Chief Executive Officer**

## Instrument of Delegation

In exercise of the power conferred by s 11(1) of the *Local Government Act 2020* (**the Act**) and all other powers enabling it, the Cardinia 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 17 August 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 30 March 2020 is revoked.

**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

1. if the issue, action, act or thing is an issue, action, act or thing which involves
  - 1.1 entering into a contract exceeding the value of \$1,000,000;
  - 1.2 making any expenditure that exceeds \$1,000,000 (unless it is expenditure made under a contract already entered into or is expenditure which Council is, by or under legislation, required to make in which case it must not exceed \$1,000,000);
  - 1.3 appointing an Acting Chief Executive Officer for a period exceeding 28 days;
  - 1.4 electing a Mayor or Deputy Mayor;
  - 1.5 granting a reasonable request for leave under s 35 of the Act;
  - 1.6 making any decision in relation to the employment, dismissal or removal of the Chief Executive Officer;
  - 1.7 approving or amending the Council Plan;
  - 1.8 adopting or amending any policy that Council is required to adopt under the Act;
  - 1.9 adopting or amending the Governance Rules;
  - 1.10 appointing the chair or the members to a delegated committee;
  - 1.11 making, amending or revoking a local law;
  - 1.12 approving the Budget or Revised Budget;
  - 1.13 approving the borrowing of money; or
  - 1.14 subject to section 181H(1)(b) of the *Local Government Act 1989*, declaring general rates, municipal charges, service rates and charges and specified rates and charges;
2. 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;
3. 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;



4. 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
  - 4.1 policy; or
  - 4.2 strategy adopted by Council;
5. 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 11(2)(a)-(n) (inclusive) of the Act or otherwise; or
6. 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.

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

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**Councillor**

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**Chief Executive Officer**