

## 6.2.3 Update of Delegations to Chief Executive Officer

**Responsible GM:** Owen Hardidge  
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### Recommendation(s)

That in the exercise of the power conferred by s 11(1)(b) of the Local Government Act 2020 Council resolves that:

- There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument.
- The Instrument comes into force immediately the common seal of Council is affixed to the Instrument.
- The duties and functions set out in the Instrument must be performed, and the powers set out in the Instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

### Attachments

1. Draft amended Instrument of delegation Council to CEO August 2023 [6.2.3.1 - 4 pages]

### Executive Summary

This report proposes to approve an updated Instrument of Delegation to the Chief Executive Officer. This update is suggested for two reasons:

1. so that all ongoing delegations to the CEO are included in the one document and not sitting separately in isolated Council resolutions. This is particularly relevant for the delegation in relation to accepting tenders for Contract CT20-10 Construction of Urban and Rural Roads Panel resolved by the Council on 20 March 2023.
2. To increase the delegation to approve payments over \$1M where this is required as part of a contract already entered or is required under legislation, it is proposed to increase this amount to \$2M. This is required due to the increasing cost of Council insurances now being in excess of \$1M, the most recent example if the Workcover premium for the n23/24 financial year which is \$1,079,463.24

### Background

The Instrument of Delegation to the Chief Executive officer was last updated in April 2022. There are no major changes proposed to the Instrument other than to include the specific delegation approved at the March Council Meeting to accept contracts under Contract CT20-10 Construction of Urban and Rural Roads Panel, this will require a slight amendment to include numbered clause 1.1.2 this additional clause will limit this delegation to a maximum value of \$3.5M and will require the CEO to report on any contracts awarded and to provide for payment of Council's insurance premiums which at times are exceeding \$1M

The proposed additional clauses read as follows:

- 1.1.2 it is a contract for works or services tendered, procured or awarded through the Constructions Contractors Panel, established by resolution of Council on April 2020 (and extended by resolution of Council on 20 March 2023), in which case the delegate may enter into the contract up to any amount not exceeding \$3,500,000, if this

delegation is exercised the Chief Executive Officer is required to report to the Council on the award of the contract at the earliest available opportunity after it is entered

- 1.2 authorising 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 \$2,000,000);

### **Policy Implications**

There are no policy implications associated with updating the CEO delegations.

### **Relevance to Council Plan**

#### **5.1 We practise responsible leadership**

5.1.2 Manage our finances responsibly and leave a positive legacy for future generations.

### **Climate Emergency Consideration**

There are no climate emergency considerations associated with the proposal.

### **Financial and Resource Implications**

There are no financial or resource implications associated with updating the CEO delegations, funds are included in the budget for any works that would be accepted by the CEO under delegation.

### **Conclusion**

It is considered appropriate to execute a new Instrument of Delegation to the Chief Executive Officer so that all ongoing delegations to the CEO are included in the one document, and not sitting separately in isolated Council resolutions and to allow for the increasing cost of Council Insurance premiums which are now exceeding \$1M.



**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 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 19 June 2023
- 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.

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

.....  
Councillor

.....  
Chief Executive officer

Date: 21 August 2023

**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 unless:
    - 1.1.1 it is a contract for works or services or the acquisition of land which is being entered into pursuant to a Development Contributions Plan ("DCP") or Infrastructure Contributions Plan ("ICP"), in which case the delegate may enter into the contract up to any amount not exceeding 10% more than the amount referred to in the DCP or ICP, or
    - 1.1.2 it is a contract for works or services tendered, procured or awarded through the Constructions Contractors Panel, established by resolution of Council on April 2020 (and extended by resolution of Council on 20 March 2023), in which case the delegate may enter into the contract up to any amount not exceeding \$3,500,000, if this delegation is exercised the Chief Executive Officer is required to report to the Council on the award of the contract at the earliest available opportunity after it is entered
  - 1.2 authorising 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 \$2,000,000);
  - 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;
- 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 strategyadopted 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.