

ORDINARY COUNCIL

AGENDA

(Open to the public)

6.30pm, Monday 6 February 2012

Council Chamber, 8 Inglesby Road, Camberwell.

Order of business

1. **Reading of the prayer**
2. **Apologies**
3. **Adoption and confirmation of the minutes of the Special Council meeting held on 23 December 2011.**
4. **Declaration of conflict of interest of any councillor or council officer**
5. **Deputations, presentations, petitions and public submissions**
6. **Assemblies of councillors**
7. **Public question time**
8. **Notices of motion**
9. **Presentation of officer reports**
 1. Contract No: 11/038 - Annual Supply - Electrical Services
 2. November 2011 Monthly Performance Report
 3. Boroondara Sustainability Awards 2011
 4. Council 2012 General Election Advertising Campaign
 5. Revised Instruments of Delegation and Instruments of Appointment and Authorisation
10. **General business**
11. **Urgent business**
12. **Confidential business**

Close of meeting

27 January 2012
(Date of issue)

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6. Assemblies of councillors

Abstract

Section 80A of the *Local Government Act 1989* requires that a written record of all Assemblies of Councillors be kept and reported to an ordinary Council meeting as soon as practicable.

The attached record of Assemblies of Councillors (**Attachment 1**) is reported to Council in accordance with this requirement.

Officers' recommendation

That Council resolve to receive and note the record of Assemblies of Councillors, as annexed to the minutes.

9. Presentation of officer reports

1 Contract No 11/038 - Annual Supply - Electrical Services

Abstract

Contract No. 11/038, Annual Supply - Electrical Services is for the provision of Electrical Services for a maximum term of five years and will replace an existing contract which has reached the end of its maximum term.

The estimated contract cost for a five year contract term is \$873,840 including the Goods and Services Tax (GST) and excluding price adjustment due to rise and fall. The estimated cost to Council after return of GST Input Credits is \$794,400. Expenditure in future years will be in accordance with approved budget allocations.

Confidential information is contained in **Attachment 1**, as circulated in the confidential section of the agenda attachments, in accordance with Section 89(2) of the *Local Government Act 1989*, as the information relates to contractual matters and premature disclosure of the information could be prejudicial to the interests of Council or other persons. This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making.

If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

Officers' recommendation

That Council resolve:

1. To award Contract No. 11/038, Annual Supply - Electrical Services to a panel consisting of:
 - City West Electrical Pty Ltd (ACN 115 931 710);
 - HA Saunders Electrical Contractors Pty Ltd (ACN 061 660 446);
 - IS Electrical Services Pty Ltd (ACN 113 841 786);
 - M & J Schofield Pty Ltd (ACN 088 273 830);
 - Wallgates Pty Ltd (ACN 096 477 842); and
 - Werribee Electrical Contracting Service (ACN 062 075 914),at their tendered Schedule of Rates for an initial contract term of one (1) year with possible one (1) year extensions to a maximum contract term of five (5) years. The estimated contract cost for the maximum term is \$873,840 (including GST). The cost to Council after the return of the GST Tax Input Credits is \$794,400.
2. To authorise the Chief Executive Officer or his delegate to execute the contract agreements with the above contractors.
3. To authorise the Chief Executive Officer or his delegate to negotiate extensions to Contract No. 11/038, Annual Supply - Electrical Services, with the above contractors to the maximum five (5) year contract term.
4. To note that expenditure under this contract in 2011/12 is in accordance with Council's adopted budget and expenditure in future years will be in accordance with the approved budget allocations.

Responsible director: David Powell
Environment and Infrastructure

1. Purpose

The purpose of this report is for Council to give consideration to the awarding of Contract No. 11/038, Annual Supply - Electrical Services.

2. Policy implications and relevance to council plan

There are no policy implications.

This tender process has been carried out in accordance with the requirements of Council's Contracts and Tendering Probity Policy and Council's Procurement Policy.

This contract is aligned with Council Strategic Objective 15 'High standards of community safety, health and amenity'.

3. Background

Council requires suitably qualified and experienced organisations to provide electrical services in accordance with the requirements of the specification.

In accordance with Council's tendering procedures and Section 186 of the *Local Government Act 1989*, Council invited public tenders from suitably qualified organisations to provide Electrical Services.

4. Outline of key issues/options

In response to the advertisement, Council received the following 15 submissions:

- A.T.S Australian Technical Services Pty Ltd
- City West Electrical Pty Ltd
- Elec-Trix Contractors Pty Ltd
- Electrofuse Pty Ltd
- H.A Saunders Electrical Contractors Pty Ltd
- I.S Electrical Pty Ltd
- JNJ Electrics Pty Ltd
- M & J Schofield Pty Ltd
- Melent Services Pty Ltd
- SEDAC Solutions Pty Ltd
- Sonec Services Pty Ltd
- Spaceformer Industries Pty Ltd
- Vicwide Electrics Pty Ltd
- Wallgates Pty Ltd
- Werribee Electrical Contracting Services

5. Consultation/communication

Internal consultation took place with the Projects and Strategy department to ensure the selection of contractors considered larger companies who have the capacity and experience to quote and carry out complex electrical works.

6. Financial and resource implications

The estimated contract cost for the maximum term is \$873,840 (including GST). The cost to Council after the return of the GST Tax Input Credits is \$794,400.

Council's 2011 budget contains a total allocation of \$220,000 for the provision of electrical services. At the time of writing the report \$146,565 of the budget amount had been either spent or committed to future expenditure. The remainder of the allocation will be applied to Council's existing Electrical Services contract and this new Contract.

7. Governance issues

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

8. Social and environmental issues

Well maintained electrical wiring and fittings will provide the public with confidence to use facilities and reduce breakdowns.

9. Evaluation and review

As a result of the tender evaluation, the tender evaluation panel recommends that Council award Contract No. 11/038, Annual Supply - Electrical Services to a panel of the following contractors:

- City West Electrical Pty Ltd (ACN 115 931 710);
- HA Saunders Electrical Contractors Pty Ltd (ACN 061 660 446);
- IS Electrical Services Pty Ltd (ACN 113 841 786);
- M & J Schofield Pty Ltd (ACN 088 273 830);
- Wallgates Pty Ltd (ACN 096 477 842); and
- Werribee Electrical Contracting Service (ACN 062 075 914),

at their tendered schedule of rates.

Manager and report officer: David Crowe, Infrastructure Services

2 November 2011 Monthly Performance Report

Abstract

The Monthly Performance Report for November 2011 is designed to identify and explain any major variances to budget at an organisational level for the period ending 30 November. Council's year to date net operating surplus reflects a favourable variance of \$2.95 million primarily due to delayed expenditure coupled with higher than budgeted income. Capital Works actual expenditure is \$17.11 million compared to year to date budget of \$21.77 million. Priority Projects expenditure of \$0.77 million was achieved which is \$0.89 million below budget phasing due to expenditure delays for the sustainable public lighting bulk change project \$0.40 million and across a number of other projects. Council's Balance Sheet and cash position are sound and depict a satisfactory result. At the end of November Council's cash position stood at \$35.07 million which has decreased by \$5.39 million from June 2011 in line with normal trends and expectations.

The November 2011 forecast reflects the first result of two full year reviews of annual financials to be undertaken during the year and projects a net operating surplus of \$13.34 million which is \$0.78 million below the Annual September Amended Budget of \$13.33 million.

Closing cash and investments are forecast to be \$36.53 million which is \$1.50 million above the September Annual Amended Budget balance of \$35.03 million.

Officers' recommendation

That Council resolve to receive and note the Monthly Performance Report for November 2011.

**Responsible director: Bruce Dobson
Corporate Services**

1. Purpose

The purpose of this report is to present to Council the Monthly Performance Report for November 2011. The Monthly Performance Report is designed to identify and explain major variances at an organisational level and is provided in **Attachment A**.

2. Policy implications and relevance to council plan

Council Strategy: "Provide customer focused financial management processes, budget systems and valuation practices in accordance with professional standards and legislative requirements".

3. Background

The Monthly Performance Report format provides an overview of operating performance and high level exception reporting for the year to date period ended 30 November 2011 compared to the September Amended Budget.

The year to date and annual budget figures referred to in this report reflect the September 2011 Amended Budget, approved by Council on 26 September 2011.

4. Outline of key issues/options

The November 2011 Monthly Performance Report highlights mostly timing and some permanent variances between the actual year to date financial performance and the year to date September Amended Budget.

The year to date net operating surplus of \$85.78 million is \$2.95 million or 4% above the year to date September Amended Budget surplus of \$82.83 million.

Year to date total recurrent and non recurrent income is \$1.40 million (\$1.13 million + \$0.27 million) above budget while year to date total recurrent and non recurrent expenditure is \$1.61 million (\$0.77 million + \$0.84 million) below budget.

November forecast vs. September Amended Budget

The November 2011 forecast net operating surplus of \$13.34 million is \$0.78 million below the Annual September Amended Budget of \$13.33 million.

Closing cash and investments are forecast to be \$36.53 million which is \$1.50 million above the September Annual Amended Budget balance of \$35.03 million.

Storm Event - 18 November 2011

On Friday 18 November a severe thunderstorm and high winds struck the City bringing down trees and powerlines. The storm was centred on Glen Iris and Camberwell and continued up through Canterbury and Balwyn causing further damage. Council received 75 reports of damage to Council trees.

Year to date expenditure related to the remediation works is \$6K. The November forecast estimates costs to be around \$0.04 million.

As per Council's financial strategy principles, a cash contingency of 0.5% (or \$0.55 million) of general rate revenue has been provided for works in response to emergency situations such as the November 2011 storm event. The cash contingency will be reduced by \$0.04 million to \$0.51 million.

Balance Sheet and Cash Flow Statement

Cash and investment holdings are \$35.07 million as at 30 November 2011 which has decreased by \$5.39 million from June 2011 in line with normal trends and expectations.

Total cash and investment holdings are \$5.45 million higher than year to date budget primarily due to:

- Lower than budgeted payments for property, plant and equipment of \$4.07 million.
- Lower than budgeted payments to suppliers (including Priority Projects) of \$0.67 million due to expenditure delays and timing of creditor payments.
- Lower than budgeted employee costs of \$0.65 million due to staff vacancies across the organisation, partially offset by temporary staff and casual staff.

Partially offset by lower than budgeted fees and charges and customer receipts of \$1.16 million.

The Balance Sheet as at 30 November 2011 indicates a satisfactory result, with total current assets of \$119.94 million and total current liabilities of \$23.15 million (working capital ratio of 5.18 to 1). The working capital ratio of 5.18 to 1 reflects the increase in current debtors resulting from the striking of the rates which will diminish over the course of the year as Council funds its operating programs and Capital Works. The rate debt will be repaid over the remainder of the financial year in accordance with the payment options chosen by ratepayers.

The adjusted working capital ratio (excluding the Strategic Acquisition Fund of \$1.65 million and 0.5% cash contingency for emergency response works) is 5.09 to 1.

Capital Works

Council's year to date performance in gross Capital Works expenditure is \$17.11 million which is \$4.66 million below budget phasing.

Capital Works committed expenditure as at 30 November 2011 is \$33.03 million (year to date actual and commitments equates to \$50.14 million). A large part of this committed expenditure relates to the Camberwell Library and Office Project of \$9.27 million and the Hawthorn Community Precinct Project of \$8.20 million. This committed expenditure will fall due over the 2011-12 and 2012-13 financial years.

Refer to **Attachment A** - page 2-3 Executive overview for graphical representation of Capital Works year to date budget, actual and committed expenditure. Further information on Capital Works is also detailed on pages 7-8 in **Attachment A**.

Priority Projects

Council's year to date performance in gross Priority Project expenditure is \$0.77 million which is \$0.89 million below budget phasing.

Priority Projects committed expenditure as at 30 November 2011 is \$0.43 million (year to date actual and commitments equates to \$1.20 million).

Refer to **Attachment A** - page 3 Executive overview for graphical representation of Priority Projects year to date budget, actual and committed expenditure. Further information on Priority Projects is also detailed on page 7 in **Attachment A**.

5. Consultation/communication

Executive Management Group has reviewed and approved the report.

6. Financial and resource implications

Council's current operating and cash flow position is sound.

7. Governance issues

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

8. Social and environmental issues

There are no direct impacts resulting from this report. Recognised accounting statements do not include imputed costs from carbon emissions at this time. As such Council's accounting systems do not accommodate expenditure or income relating to estimated social or environmental impacts.

Manager: Greg Hall, Business Development

Report officer: Daniel Allen, Management Accountant

3 Boroondara Sustainability Awards 2011

Abstract

The Boroondara Sustainability Awards recognise and celebrate sustainable design in homes and gardens across the municipality. Judging of the inaugural 2010 awards program was undertaken by a panel of two industry experts and Cr Coral Ross as the appointed councillor. Submissions for the 2011 awards have now closed and a councillor appointment to the 2011 judging panel is requested.

With the success of this second awards program, consideration should be given to future councillor representation on the judging panel being confirmed through the yearly allocation of councillor assignments.

Officers' recommendation

That Council resolve:

1. To appoint a panel comprising Councillor _____ and two industry experts to judge the 2011 Boroondara Sustainability Awards.
2. That representation on the awards judging panel be included in the yearly allocation of councillor assignments.

Responsible director: David Powell
Environment and Infrastructure

1. Purpose

To seek a councillor appointment to the judging panel for the 2011 Boroondara Sustainability Awards, and to establish this role as a councillor assignment.

2. Policy implications and relevance to council plan

Instituting an awards program for buildings incorporating ecologically sustainable design principles was a commitment contained within the *Council Plan 2009-2014*. Supporting the community to adopt sustainable design features and sustainable living practices is consistent with our commitment to improving the natural and urban environments in a sustainable way as set out in the *Council Plan 2011*, the *Our Low Carbon Future* strategy and in the *Our Boroondara - Our City Our Future* vision document.

3. Background

The Boroondara Sustainability Awards recognise and promote projects in Boroondara that incorporate sustainable design principles within a residential home or garden. Applicants are invited to complete an entry form accompanied by supporting documents such as photos, plans, or utility bills if they wish. The program is open to all residents, and also to professionals that have worked on residential projects (such as architects, builders, plumbers, electricians, landscape designers etc). All entrants receive a free one year's subscription to a green magazine.

The inaugural 2010 awards attracted 20 entries, with winners announced in May 2011 and subsequently profiled in a series of Boroondara Bulletin articles.

Entries for the 2011 awards closed on 31 December and attracted 13 entries.

4. Outline of key issues/options

Councillor representation on judging panel

The inaugural awards were judged by a panel comprising one councillor (Cr Ross) and two senior professionals within the Royal Institute of Architects (Gregory Burgess) and the Australian Institute of Landscape Architects (Scott Graham), and convened by the Manager of Environment and Sustainable Living.

A councillor appointment to the 2011 judging panel is now required, and the opportunity exists for this role to become an annual councillor assignment.

5. Consultation/communication

Promotion of the 2011 awards commenced in July 2011 and has included a wide range of channels including local print media, community and professional networks, billboards, posters, postcards, online and in the Boroondara Bulletin. The Boroondara Bulletin series profiling the six 2010 award winners provided a great opportunity to promote sustainability messages and to raise awareness of the awards.

6. Financial and resource implications

All costs associated with the awards are accounted for in Environment and Sustainable Living's operating budget. There are no additional costs resulting from this proposal.

7. Governance issues

All members of the panel will be required to declare any conflicts of interest prior to judging the entries.

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

8. Social and environmental issues

The objectives of the awards are to:

- Promote and reward the uptake of sustainability in our built environment.
- Give entrants the chance to inspire others with their sustainability stories.
- Provide an awards program for the general public, rather than just industry.
- Provide a register of visible case studies of sustainable gardens and buildings.
- Encourage the community to take the next step in sustainable design.
- Help stimulate market demand for more sustainable gardens, buildings and trades.
- Increase the level of acceptability and desirability of sustainable gardening and building.

Manager: Adam Hall, Environment and Sustainable Living

Report officer: Lisa Di Felice, Sustainability Officer

4 Council 2012 General Election Advertising Campaign

Abstract

This report outlines the advertising and promotional opportunities being considered for the 2012 general council election, including:

- The Victorian Electoral Commission's proposed advertising and communication campaign.
- Council's own independent advertising and promotional opportunities.
- Collaborative opportunities through the Victorian Local Governance Association's Think Women for Local Government project and the Municipal Association of Victoria's Stand for Council campaign.

Officers' recommendation

That Council resolve to receive and note the report.

**Responsible manager: Andrew Dowling
Acting Manager Governance**

1. Purpose

The purpose of this report is to outline the advertising and promotional opportunities being considered for the 2012 general council election.

2. Policy implications and relevance to council plan

This report is consistent with the *Council Plan June 2011*, providing opportunities for our community to have a say in matters of interest to them, respecting that they have a role in achieving Boroondara's vision and encouraging greater public participation in local democratic processes.

3. Background

The next Victorian local government general elections are scheduled for 27 October 2012.

Whilst contractual arrangements have not been put in place at this stage, officers expect the VEC will be engaged to conduct the general election.

No other provider has expressed interest in conducting local government elections and the Minister for Local Government, the Hon Jeanette Powell MP, has recently granted councils an exemption from the tendering requirements in Section 186 of the *Local Government Act 1989*, where councils engage the VEC for election services.

Appointment of the VEC to conduct the Boroondara elections is therefore presumed for the purposes of this report.

Statewide VEC advertising will play an important role in the success of the 2012 elections, encouraging participation of candidates, increasing voters' awareness of their rights and obligations, and maximising voter turnout. Local advertising and promotion undertaken by the City of Boroondara will contribute to the same objectives, encouraging Boroondara residents and ratepayers to engage in the democratic process.

The VEC has circulated an election plan in advance of the tendering and contracting period for the 2012 elections. The plan includes an outline of the services the VEC is offering Victorian councils during the election period, including the preparation of voters roles, the production of official ballot material, and the operation of voting centres; it also details the VEC's proposed advertising and communication campaign for the 2012 local government elections.

4. Outline of key issues/options

Advertising of council's 2012 general election will be undertaken by the VEC and by council itself. An outline of the VEC and council advertising and promotional activities is set out below:

1. VEC proposed advertising and communication campaign

As outlined in its *2012 Local Government Elections Plan*, the VEC proposes to undertake a local and statewide advertising campaign for the 2012 Victorian local government elections. The VEC's campaign has been developed 'to meet statutory requirements, increase voters' awareness of their rights and obligations, maximise voter turnout, and minimise the informal vote.'

Details of the VEC's proposed campaign are extracted in **Attachment 1**. The campaign includes, in summary:

- Statutory advertising in the general news section of local newspapers (expected to be the *Progress Leader*) covering enrolment entitlements, display of voters rolls, prospective candidate information, voting details for casting of ballots, and declaration of results.
- Statewide advertising across statewide press, regional/metropolitan radio, and social media to promote enrolment and voting.
- Multi-language advertising for metropolitan councils to include ethnic press and radio in high need languages.
- Multi-language telephone interpreting service (for all councils);
- Mail-out to blind and vision-impaired voters in liaison with Vision Australia (Vic) and Blind Citizens (Vic).
- Uncontested election leaflet where a ward election is uncontested.
- The VEC website will feature comprehensive information about the council elections generally as well as specific information for each council's election.
- Reminder advertisement (optional) in council's nominated local press.
- Multi-language leaflet for postal elections (optional at a cost) in 20 high need languages (plus English).

2. Council proposed advertising and promotion campaign

As in previous general elections, it is anticipated that the VEC's advertising and promotion campaign will be complemented by council's own election advertising and promotion.

As required by the *Local Government Act 1989*, council certified advertising material will only contain information about the election process.

Advertising and promotions will be undertaken through a range of mediums and promotional material including, but not limited to:

- Digital channels including council's website and social media.
- Print based council media such as the *Boroondara Bulletin*.
- Local media via council's *Progress Leader* advertising and radio interviews on Whitehorse-Boroondara Community Radio FM.
- Council's messages-on-hold service.

- Collateral located at council offices and other council and community facilities, such as libraries, maternal and child health centres, leisure and aquatic facilities, and community houses.
- Inserts in bulk mail outs.
- Cross promotion through other departments and teams such as Youth Services and Aged and Disability Support Services; and networks such as the Boroondara Business Network.

As in previous years, it is anticipated council will host one or two prospective councillor sessions in conjunction with the VEC and MAV in 2012, designed to provide practical and detailed information to prospective candidates considering standing for election.

Council supported and promoted the MAV's *Stand for Council* campaign in 2008 via the council website, media releases, and other election collateral. The campaign is currently being refreshed by the MAV and similar support is proposed for the campaign in 2012.

The statewide *Stand for Council* campaign aims to encourage citizens to stand for election by informing potential candidates about local government and providing materials to support the transition from citizen to councillor. The *Stand for Council* website, www.standforcouncil.com.au, provides generic information on how residents can become councillors, the role and duties of councillors, and what attributes make a good councillor.

Boroondara has also offered to support the VLGA project, *Think Women for Local Government*. This project aims to build the number and diversity of women candidates in the Victorian local government elections. The project will include up to ten regional forums held around Victoria, with Boroondara hosting a regional forum on 28 March 2012. The campaign is designed to introduce potential women candidates to resources and materials and to support their decision making and readiness for possible candidacy.

Publicity support through Council's website and advertising collateral is also anticipated, similar to support provided for the *Stand for Council* campaign.

5. Consultation/communication

Council has provided feedback to the VEC in the development of their election plan and, as indicated, is collaborating with the VLGA on the delivery of the *Think Women for Local Government* project.

Over the coming months, the Governance and the Communications and Engagement Departments will develop a detailed campaign for the 2012 general elections and will work closely together leading up to and during the election period to ensure the effectiveness of the campaign.

6. Financial and resource implications

There are no financial or resource implications arising as a direct result of this report. Appropriate bids are currently being prepared for the promotion and conduct of the 2012 council elections as part of the preparation of the draft *2012-13 Budget* and any contract with the VEC for the provision of the electoral services will be the subject of a separate report to council.

7. Governance issues

Council is required under the *Local Government Act 1989* (the Act) not to endorse any potential candidates when advertising and promoting the general election. The Act provides that council advertising material during the election period must only contain factual information about the election process, and all advertising during this period will require certification by the Chief Executive Officer.

The VEC election plan takes into account councils' obligations under the *Charter of Human Rights and Responsibilities Act 2006* and includes appropriate provisions and mechanisms to ensure that the promotion and conduct of the election does not breach or infringe prescribed rights, particularly the rights to participate in the conduct of public affairs, to vote at municipal elections, and to access public office.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

8. Social and environmental issues

Advertising and promoting council's general election will have a positive impact on the local community by encouraging participation in local democratic processes and by encouraging strong candidates for council.

Acting manager: Andrew Dowling, Governance

Report officer: Simon Purtell, Acting Governance Officer

5 Revised Instruments of Delegation and Instruments of Appointment and Authorisation

Abstract

Instruments of Delegation represent the formal delegation of powers by Council under Section 98(1) of the *Local Government Act 1989* and enable the business of Council to be carried out efficiently and in line with Council approved policies.

The appointment of Authorised Officers enables appropriate staff within the organisation to administer and enforce Acts, regulations or local laws in accordance with the powers granted to Authorised Officers under the legislation or local law.

Council subscribes to the Maddocks Authorisations and Delegations Service, which provides advice regarding legislative amendments and template instruments which are then tailored to organisational requirements.

The following revised or new instruments are proposed:

- A revised Instrument of Delegation to Council Staff to replace that executed on 28 September 2011, taking into account legislative changes, policy changes and changes to the organisational structure since the adoption of the previous Instrument and amendments suggested by Maddocks.
- A new Instrument of Delegation to the Chief Executive Officer to replace that executed on 29 November 2010 without revision, to refresh the delegation consistent with advice provided by Maddocks.
- New Instruments of Appointment and Authorisation in response to staff appointments and changes.

Officers' recommendation

That Council resolve:

1. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the Instrument of Delegation to the Chief Executive Officer (as annexed to the minutes), that:
 - 1.1. There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument.
 - 1.2. The Instrument be sealed.
 - 1.3. The Instrument comes into force immediately the common seal of Council is affixed to the Instrument.
 - 1.4. On the coming into force the previous Instrument of Delegation to the Chief Executive Officer executed on 29 November 2010 is revoked.

- 1.5. The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
- 1.6. It is noted that the Instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.
2. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the Instrument of Delegation to Members of Council Staff (as annexed to the Minutes), that:
 - 2.1 There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation to Members of Council Staff, the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.
 - 2.2. The Instrument be sealed.
 - 2.3 The Instrument comes into force immediately the common seal of Council is affixed to the Instrument.
 - 2.4 On the coming into force the previous version of the Instrument of Delegation to Members of Council Staff executed on 28 September 2011 is revoked.
 - 2.5 The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
3. In the exercise of the powers conferred by section 224 of the *Local Government Act 1989* and section 147(4) of the *Planning and Environment Act 1987*, that:
 - 3.1 The members of Council staff referred to in the attached Instruments of Appointment and Authorisation (as annexed to the Minutes) be appointed and authorised as set out in the Instruments.
 - 3.2 The Instruments be sealed.
 - 3.3 The Instruments come into force immediately the common seal of Council is affixed to the Instruments, and remain in force until Council determines to vary or revoke them.

**Responsible acting manager: Andrew Dowling
Governance**

1. Purpose

The purpose of this report is for Council to consider adopting revised Instruments of Delegation to the Chief Executive Officer and to Members of Council Staff as well as to consider the appointment and authorisation of staff in accordance with the *Planning and Environment Act 1987*.

2. Policy implications and relevance to council plan

The Instrument of Delegation to Council Staff has been revised to take into account changes to the Residential Design policy, adopted by Council at the Urban Planning Special Committee Meeting on 12 December 2011.

The amendments to the delegated powers, duties and functions are otherwise largely administrative in nature and will not result in any significant changes to current practices.

Adopting the Instruments of Appointment and Authorisation will not result in any changes to current practices.

3. Background

Instruments of Delegation represent the formal delegation of powers by Council. Section 98(1) of the *Local Government Act 1989* provides that a Council may, by instrument of delegation, delegate to a member of its staff any power, duty or function of a Council under the *Local Government Act 1989* or any other Act, other than certain specified powers. Delegations enable the business of Council to be carried out effectively, in line with Council approved policies.

Instruments of Appointment and Authorisation enable appropriately appointed staff to exercise the powers granted to authorised officers under various pieces of legislation. The Instruments presented to Council are for the appointment and authorisation of staff in the Statutory Planning department and Health, Ageing and Disability Services department pursuant to section 224 of the *Local Government Act 1989* and section 147(4) of the *Planning and Environment Act 1987*.

4. Outline of key issues/options

Revised Instruments of Delegation to the Chief Executive Officer

The revised Instrument of Delegation to the Chief Executive Officer is based upon the previous Instrument considered by Council on 22 November 2010. A copy of the Instrument is at **Attachment 1**.

No substantive changes have been made, however advice has been received from Maddocks suggesting it is prudent to refresh this delegation on a regular basis. The renewal of the delegation is for the avoidance of doubt that the delegation to the Chief Executive Officer applies to powers, functions or duties that have come into existence subsequent to the execution of the previous Instrument in 2010.

Revised Instruments of Delegation to Members of Council Staff

The revised Instrument of Delegation to Members of Council Staff is based upon the previous Instrument considered by Council on 26 September 2011.

The Instrument has been amended as part of a comprehensive update to the Maddocks Authorisations and Delegations Service in response to legislative changes made by Parliament in the second half of 2011.

Consequential amendments have also been made, following Council's adoption of a revised Residential Design Policy at the Urban Planning Special Committee Meeting on 12 December 2011. Minor changes reflecting changes in the organisational structure and position titles have also been made.

A copy of the revised Instrument, showing all changes, is at **Attachment 2**. A list of the legislative changes is outlined at **Attachment 3**.

Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987*

Under section 224 of the *Local Government Act 1989*, Council may appoint any person to be an authorised officer for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.

Instruments of Appointment and Authorisation specific to the *Planning and Environment Act 1987* have been created for Council's approval.

This is consistent with advice from Council's solicitor Maddocks that Council should not delegate the power to appoint authorised officers enforcing the *Planning and Environment Act 1987*. Appointment of authorised officers by Council under the *Planning and Environment Act 1987* is a risk mitigation measure to ensure the validity of Council's current Instruments of Appointment and Authorisation is upheld if ever challenged in a Court of Law.

Copies of the Instruments are at **Attachment 4**.

5. Consultation/communication

The revised Instruments of Delegation and the Instruments of Appointment and Authorisation have been prepared based on the most current advice provided by Council's solicitor Maddocks, to ensure the Instruments reflect relevant changes to legislation.

Relevant staff have been consulted in the preparation of the new and revised Instruments.

6. Financial and resource implications

The costs to prepare and adopt the Instruments are minimal and will be met within the current departmental budget.

7. Governance issues

This report has been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities and officers believe there are no breaches of, or infringements upon, prescribed rights arising as a consequence of the recommendations in this report.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

8. Social and environmental issues

The adoption of the Instruments in this report will ensure Council continues to comply with its obligations under various Acts and Regulations. This will assist to ensure that Council's practices remain transparent and that high standards of integrity and accountability are maintained.

Acting manager: Andrew Dowling, Governance

Report officer: Elisha Marriott, Acting Coordinator Governance