

## 7.7 Consideration of Public Submissions and Proposed Adoption of Boroondara City Council Street Numbering Local Law

### Abstract

The purpose of this report is for Council to consider making the Boroondara City Council Street Numbering Local Law (SNLL 2020) to enforce the display of allocated legal street numbers on properties.

The previous Street Numbering Local Law was originally adopted by Council 19 July 2010 and commenced on 6 August 2010. The current Street Numbering Local Law expired (i.e. its 'sunset date') on 6 August 2020.

On 22 June 2020 Council resolved to begin the statutory process to introduce SNLL 2020. Public notice was given in the Government Gazette and Age newspaper on 25 June 2020. The public notice was also published on Council's web site on 24 June 2020 and the community were also invited to have their say via the 'Have Your Say' section of the Council website. The closing date for submissions was 24 July 2020.

One written submission has been received. The submitter has expressed the view due to COVID-19 restrictions it is not possible for the community to be fully engaged in the proposal to make the SNLL 2020 and has suggested Council extend the existing Local Law to at least early December but preferably to February 2021. The current Street Numbering Local Law expired on 6 August 2020 and therefore it cannot be extended.

Officers consider the previous Street Numbering Local Law was beneficial in enforcing the display of street numbers, where there was a dispute regarding the street number allocated. Although the previous Street Numbering Local Law was in operation for 10 years, it was never actually necessary to issue any penalty notices under the previous Local Law.

The intent of SNLL 2020 is to provide Council with the necessary legal enforcement means when disputes over street numbering cannot be resolved during negotiation or when all other avenues have been exhausted.

Confidential information is contained in **Attachment 2**, as circulated in the confidential section of the agenda attachments.

This attachment is confidential information for the purposes of section 3(1) of the Local Government Act 2020:

- (a) because it is personal information, being information which if released would result in the unreasonable disclosure of information about a person of their personal affairs (section 3(1)(f)); and
- (b) this ground applies because the agenda item considers written public submissions and personal affairs information has been disclosed in a written submission.

If discussion of the confidential information in the attachment 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. Having complied with the requirements of Section 119(2) of the Local Government Act 1989 (the Act) and having received and considered a submission under Section 223 of the Act to make the Boroondara City Council Street Numbering Local Law (as annexed to the Minutes) in accordance with Sections 111 and 119 of the Act.
2. To affix the common seal to the Boroondara City Council Street Numbering Local Law.
3. To give notice of the making of the Boroondara City Council Street Numbering Local Law in the Victorian Government Gazette and a public notice in the Age newspaper in accordance with Section 119(3) of the Act.
4. Having made the Boroondara City Council Street Numbering Local Law to send a copy to the Minister for Local Government in accordance with Section 119(4) of the Act.
5. To write to the person who made the submission and thank them for their submission and inform them of the Council decision. The reason for that decision being Council considers the Boroondara City Council Street Numbering Local Law is necessary and appropriate to provide for the protection and enhancement of the amenity and environment of the municipality through the uniform numbering of properties throughout the municipality.

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**Responsible officer: David Thompson - Manager Governance**

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## **1. Purpose**

The purpose of this report is for Council to consider making the Boroondara City Council Street Numbering Local Law (SNLL 2020) to enforce the display of allocated legal street numbers on properties. The proposed SNLL 2020 is included at **Attachment 1** to this report.

## **2. Policy implications and relevance to community plan and council plan**

This report is consistent with the Council Plan 2017-21, in particular strategy 7.2, which states “Ensure transparent decision making through open governance processes”.

It also supports Strategic Objective 7 of the Boroondara Community Plan 2017-27, to “Ensure that ethical, financial and socially responsible decision making reflect community needs and are based on principles of accountability, transparency, responsiveness and consultation”.

## **3. Background**

The previous Street Numbering Local Law was originally adopted by Council on 19 July 2010 and commenced on 6 August 2010. It was amended once by Council on 15 August 2011, to correct an administrative issue.

The current Street Numbering Local Law expired (i.e. its ‘sunset date’) on 6 August 2020. Council must make a new Street Numbering Local Law in accordance with the requirements of the Local Government Act 1989 (the Act).

## **4. Outline of key issues/options**

The previous Street Numbering Local Law provided officers with the capacity to encourage the correct street number to be displayed where there was a reluctance by some owners to not do so.

Confusion from incorrectly displayed street numbers effect deliveries to both residential and commercial properties, taxi and shuttle services and more importantly timely responses from emergency services such as ambulance, police, State Emergency Service and fire brigade.

The SNLL 2020 is not intended as a revenue raising opportunity. Council officers will not be actively enforcing or monitoring compliance with SNLL 2020. The intent of SNLL 2020 is to provide Council with necessary legal enforcement means when disputes over street numbering cannot be resolved during negotiation or when all other avenues have been exhausted.

To assist in drafting and effectively communicating the content of the proposed SNLL 2020 a “Local Law Community Impact Statement” was prepared and exhibited for review with the proposed SNLL 2020.

## 5. Consultation/communication

On 22 June 2020 Council resolved to begin the statutory process to introduce SNLL 2020.

The Act requires 28 days public notice to be given about a proposed local law. The proposed SNLL 2020 has undergone public exhibition in accordance with the provisions of the Act as highlighted in the public notice published in the Victoria Government Gazette and Age newspaper on 25 June 2020 inviting submissions on the proposed SNLL 2020. The public notice was also published on Council's web site on 24 June 2020 and the community were also invited to have their say via the 'Have Your Say' section of the Council website. The closing date for submissions was 24 July 2020.

One written submission was received in response to Council's proposal to introduce the SNLL 2020. A copy of the submission has been circulated to councillors separately in confidential **Attachment 2**. The submitter, who is against the proposal, has not indicated in their written submission they would like to be heard in support of their written submission.

The submitter has made the following comments in relation to the proposed introduction of SNLL 2020:

<b>Submitters comments</b>	<b>Officer comment</b>
<p>In the current and former lockdowns of the state of Victoria it is not possible for ratepayers or renters to fully engage in the consideration of the proposed changes nor to discuss or alert others so affected, to the proposals. We submit that council extend the existing law on this matter to at least early December but preferably to February 2021. This will allow the affected residents and ratepayers to fully discuss the proposals which involve small but powerful alteration to the existing regulations and to seek and submit expert comment on the effects of the changes.</p>	<p>Officers are of the view the business of Council must continue during the COVID-19 pandemic in accordance with government directives.</p> <p>The current Street Numbering Local Law expired on 6 August 2020 and therefore it cannot be extended.</p> <p>The proposed SNLL 2020 is generally consistent with the previous Street Numbering Local Law. The intent of the proposed SNLL 2020 is to provide Council with necessary legal enforcement means when disputes over street numbering cannot be resolved during negotiation or when all other avenues have been exhausted.</p> <p>Although the previous Street Numbering Local Law was in operation for 10 years, it was never actually necessary to issue any penalty notices under the previous Local Law.</p> <p>Officers recognise confusion from incorrectly displayed street numbers effect deliveries to both residential and commercial properties, taxi and shuttle services and more importantly timely responses from emergency services such as ambulance, police, State Emergency Service and fire brigade. The making of the SNLL 2020 will assist to avoid this confusion.</p> <p>On balance officers are of the view it is appropriate to proceed with the making of the Boroondara City Council Street Numbering Local Law.</p>

If Council resolves to make the SNLL 2020 the remaining steps required are:

1. Give notice to the community in the Government Gazette and Age newspaper.
2. Make the SNLL 2020 available on Council's website and from customer service.
3. To write to the person who made the written submission and inform them of the Council decision and the reasons for that decision.
4. Send a copy of the local law to the Minister for Local Government.
5. Commencement of SNLL on 28 August 2020.

The SNLL 2020 has been prepared based upon advice from Council's lawyers.

## **6. Financial and resource implications**

The costs to make the SNLL 2020 will be met within the current budget and includes the cost of legal advice and public notice.

The SNLL 2020 is not for the purpose of revenue raising. It is intended to ensure the safety and amenity of the community. Any enforcement action will be met within existing resource allocations.

## **7. Governance issues**

Officers involved in the preparation of this report have no conflict of interest. The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities has been reviewed in accordance with Council's Human Rights Compatibility Assessment Tool and it is considered the proposed actions contained in this report represent no breaches of, or infringements upon, those prescribed rights.

## **8. Social and environmental issues**

A Street Numbering Local Law will enable Council to continue to ensure the allocated street numbers are displayed, thereby ensuring that properties can be readily identified by taxi and shuttle services and more importantly timely responses from emergency services such as ambulance, police, State Emergency Service and fire brigade.

**Manager:** David Thompson, Governance

**Report officer:** John Lorkin, Coordinator Revenue and Property Services

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**BOROONDARA CITY COUNCIL**

**STREET NUMBERING LOCAL LAW**

Date Resolved By Council:      ## 2020

Commencement Date:            ## 2020

Revocation Date:                ## 2030

Responsible Directorate:        Chief Executive Office/Customer Experience and  
Business Transformation

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## **PART A – PRELIMINARY**

### **1. Local Law**

This Local Law is called the ‘Boroondara City Council Street Numbering Local Law’ and is made under Part 5 of the *Local Government Act 1989*.

### **2. Objectives**

The objectives of this Local Law are to provide for the:

- 2.1. revocation of Council’s existing Street Numbering Local Law 2010;
- 2.2. peace, order and good governance of the municipality;
- 2.3. protection and enhancement of the amenity and environment of the municipality through the uniform numbering of properties throughout the municipality;
- 2.4. display of street numbers that are of a style, size and colour as to be clearly visible to occupants from vehicles on the nearest adjacent road;  
and
- 2.5. uniform and fair administration of this Local Law.

### **3. Commencement**

This Local Law commences on the day following the notice of its making being published in the *Victoria Government Gazette*.

### **4. Revocation Dates**

- 4.1 This Local Law ceases to operate on a date that is 10 years after its commencement unless revoked earlier by Council.
- 4.2 Upon the commencement of this Local Law **Council’s** Street Numbering Local Law 2010 is revoked.

### **5. Application of Local Law**

This Local Law applies throughout the municipality unless specifically stated otherwise.

### **6. Definitions**

Some of the words or terms in this Local Law are defined. They are identified in **bold** and have the following meanings in this Local Law:

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**Authorised Officer** – means a person appointed by Council under section 224 of the *Local Government Act 1989*;

**Council** – means Boroondara City Council;

**municipality** – means the municipal district of Council;

**notice to comply** – means a notice to comply issued under this Local Law;

**occupier** – means the person who is for the time being in charge of land;

**owner** – means the person or persons for the time being entitled to be registered on Title as the owner of the land and where more than one person each of them jointly and severally;

**penalty unit** – has the same meaning as in the *Sentencing Act 1991*;

**private land** – means all land other than public land;

**public land** – means all land owned, leased, managed or occupied by a public body, including Council;

**residential area** – means an area zoned as Residential under the Boroondara Planning Scheme and includes an area which is predominantly in a Residential Zone under that Planning Scheme; and

**road** – has the same meaning as in the *Local Government Act 1989*.

## 7. Conflict with Other Legislation

This Local Law does not apply where any act or thing is authorised by or under any legislative instrument or Planning Scheme.

## PART B – STREET NUMBERING

### 8. Property Numbers to be displayed

- 8.1. The **owner** of **private land** that has been allocated a street number by **Council** must mark the **private land** with the allocated street number.
- 8.2. Where the **private land** is in a **residential area** the allocated street number must be:
  - 8.2.1. located on the front boundary alignment of the **private land**;
  - 8.2.2. located as near as practicable to the driveway, letterbox or entry gate; and

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- 8.2.3. of a style, size and colour so as to be clearly visible to occupants from vehicles on the nearest adjacent **road**.
- 8.3. Where the **private land** is in any area other than a **residential area** and the premises are business premises or otherwise, the allocated street number must be:
  - 8.3.1. located on the front of the premises as near as practicable to the entry or doorway; and
  - 8.3.2. of a style, size and colour so as to be clearly visible to occupants from vehicles on the nearest adjacent **road**.
- 8.4. It is an offence to fail to mark the **private land** with the allocated street number or to mark the **private land** with a number other than the allocated street number.

## 9. Powers of Council

Without affecting the operation of any particular provision of this Local Law, unless the contrary intention appears, everything that:

- 9.1. **Council** is capable of doing under this Local Law is also capable of being done by an **Authorised Officer**; and
- 9.2. An **Authorised Officer** is capable of doing under this Local Law is also capable of being done by **Council**.

## 10. Notice to Comply

- 10.1. Where **Council** or an **Authorised Officer** reasonably believes that a person has committed an offence against this Local Law, the **Council** or **Authorised Officer** may issue to the person a written **notice to comply** which:
  - 10.1.1. requires the person to stop the conduct constituting the offence;
  - 10.1.2. contains a direction indicating what action is required to stop the conduct constituting the offence;
  - 10.1.3. contains direction indicating what action is required to achieve compliance with the Local Law; and/or
  - 10.1.4. contains a direction to remedy any consequences arising from the conduct constituting the offence.
- 10.2. A **notice to comply** must include information about:
  - 10.2.1. the name of the alleged offender (if known);

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- 10.2.2. the offence, and the provision of this Local Law it infringes;
- 10.2.3. the action required to stop committing the offence;
- 10.2.4. the time for compliance;
- 10.2.5. the date on which it was issued; and
- 10.2.6. the name and signature of the **Authorised Officer** or member of Council staff, as the case may be.

**11. Reasonable time to comply**

The time required by a **notice to comply** served under this Local Law must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied, but should take the following into account if applicable:

- 11.1. the amount of work involved;
- 11.2. the degree of difficulty;
- 11.3. the availability of necessary materials or other necessary items;
- 11.4. climatic conditions;
- 11.5. the degree of risk or potential risk; and
- 11.6. any other relevant factor.

**12. Failure to adhere to a notice to comply**

- 12.1. Any person served with a **notice to comply** under this Local Law who fails or refuses to comply with the requirements of the **notice to comply** within the time specified in it is guilty of an offence against this Local Law.
- 12.2. If a person on whom a **notice to comply** is served fails to comply with the requirements of that **notice to comply**, **Council** or an **Authorised Officer** or any employee or any other person authorised in writing by **Council**, may enter upon any **private land** on which there is any such failure to comply and do all such acts, matters or things that are required to comply with the **notice to comply**.
- 12.3. All costs and expenses incurred by **Council** in carrying out any acts, matters or things described in sub-clause 12.2 are a debt due to **Council** from the person on whom the **notice to comply** was served.

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**13. Appeals**

- 13.1. A person may request **Council** or an **Authorised Officer** to review an order, direction or notice issued in relation to him or her under a Local Law.
- 13.2. Where a request for review has been made under clause 13.1, the person requesting the review must do everything practicable to cooperate in the prompt review of the order, direction or notice.

**PART C – ENFORCEMENT****14. Offences**

A person is guilty of an offence if the person:

- 14.1. does something which a provision of this Local Law prohibits to be done or makes an offence;
- 14.2. fails to do something which a provision of this Local Law requires to be done; or
- 14.3. fails to comply with a **notice to comply** or a direction of an **Authorised Officer** under this Local Law.

**15. Infringement Notice**

- 15.1. Where an **Authorised Officer** reasonably believes that a person has committed an offence against this Local Law, the **Authorised Officer** may issue to that person an infringement notice, as an alternative to a prosecution for the offence.
- 15.2. A person to whom an infringement notice has been issued must pay to **Council** the amount specified in the infringement notice within 28 days.
- 15.3. The infringement notice must contain:
  - 15.3.1. the name and address of the offender;
  - 15.3.2. the nature of the offence in general terms;
  - 15.3.3. the date, time and place of the offence;
  - 15.3.4. the amount of the fixed penalty, being one **penalty unit** or, in the case of a second or subsequent offence, three **penalty units**;
  - 15.3.5. the clause of this Local Law of the offence;

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15.3.6. the time within which the penalty must be paid to avoid prosecution, and the place at which it can be paid; and

15.3.7. that the offender is entitled to disregard the infringement notice and defend the prosecution in Court.

15.4. To avoid prosecution a person to whom an infringement notice is issued must pay to **Council** the amount set out in the infringement notice within 28 days.

**16. Penalties**

If no penalty is specifically provided for in a provision in this Local Law, a person found guilty of an offence under this Local Law is subject to the following penalties:

- First offence – not more than 3 **penalty units**; and
- Second or subsequent offence – not more than 10 **penalty units**.

**17. Additional Penalty**

In addition to any penalty imposed pursuant to this Local Law, a penalty not exceeding 2 **penalty units** will apply for each day after conviction for an offence during which a contravention of this Local Law continues.

**18. Costs Incurred by Council**

A person who is guilty of an offence under this Local Law must pay to **Council** all reasonable costs incurred by **Council** in remedying the offence.

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of: )  
)  
)

..... Councillor

..... Chief Executive Officer

..... Date

## 7.8 Delegated Committees - Establishment, delegations and appointment of Chairpersons and members

### Abstract

This report considers the establishment the Services Delegated Committee, Urban Planning Delegated Committee, and Management Performance Review Delegated Committee, the appointment of Chairpersons and members to these Committees and recommends the making of the Instrument of Delegation for each Committee.

The sections of the *Local Government Act 2020* (the Act) relating to delegated committees came into effect on 1 May 2020. The delegations to the existing committees made under the *Local Government Act 1989* remain in force until 1 September 2020 or until the committees are established by Instruments of Delegation made under the provisions of the Act.

Instruments of Delegation represent the formal delegation of powers by Council and enable the business of Council to be carried out efficiently and in line with Council approved policies.

The Instruments of Delegation to the existing Services, Urban Planning and Management Performance Review Special Committees were last adopted by Council on 27 February 2017.

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

Officers are of the view that the Council has been well served by the existing committee structure and no changes to the structure are proposed. Based on advice from Maddocks Lawyers, the previous versions of the Instruments of Delegation from Council to the Committees have been updated to reflect the recent legislative changes as a result of the proclamation of the Act.

### Officers' recommendation

In exercise of the powers conferred by s 63 of the *Local Government Act 2020* (the Act), Council resolves that:

1. From the date of this resolution, there be established as Delegated Committees the Services Delegated Committee, the Urban Planning Delegated Committee and the Management Performance Review Delegated Committee.
2. The purpose of the Delegated Committees are those set out in **Attachment 2** as annexed to the minutes.
3. The members of the Services Delegated Committee are Councillor Addis, Councillor Healey, Councillor Hollingsworth, Councillor Hurd, Councillor Parke, Councillor Thompson, Councillor Ross, Councillor Sinfield, Councillor Watson and Councillor Wegman.

4. The members of the Urban Planning Delegated Committee are Councillor Addis, Councillor Healey, Councillor Hollingsworth, Councillor Hurd, Councillor Parke, Councillor Thompson, Councillor Ross, Councillor Sinfield, Councillor Watson and Councillor Wegman.
5. The members of the Performance Management Review Committee are Councillor Addis, Councillor Sinfield, Councillor Watson and Councillor Wegman.
6. The Chairperson of the:
  - Services Delegated Committee is Councillor Ross;
  - Urban Planning Delegated Committee is Councillor Thompson.
  - Management Performance Review Delegated Committee is Councillor Watson.
7. A quorum for each of the three Committees 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 Delegated Committees.
8. All members of the Delegated Committees have voting rights on the respective Delegated Committees.
9. There be delegated to the members of the Delegated Committees the powers, duties and functions set out in the Instruments of Delegation (**the Instruments**) as at **Attachment 2** as annexed to the minutes.
10. The Instruments:
  - a) come into force immediately the common seal of Council is affixed to the Instrument; and
  - b) remain in force until Council determines to vary or revoke it.
11. The powers, duties and functions conferred on the members of the Delegated Committees by the Instruments must be exercised in accordance with any guidelines or policies Council may from time to time adopt.
12. The Instruments be sealed.

**Responsible director:** Phillip Storer  
Chief Executive Officer

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## 1. Purpose

The purpose of this report is for Council to consider establishing the Services Delegated Committee, the Urban Planning Delegated Committee and the Management Performance Review Delegated Committee under the provisions of the *Local Government Act 2020* (Act) and delegating specific Council functions, duties and powers to these committees by making an Instrument of Delegation for each. The existing Instruments of Delegation are required to be remade as a result of the proclamation of the the Act. This report also recommends the chairperson and membership of each of these Committees as required by the Act.

The revised Instruments (with changes tracked) are at **Attachment 1** and a clean copy is at **Attachment 2**.

## 2. Policy implications and relevance to community plan and council plan

The revised Instruments relate to Priority Theme 7 in particular strategy 7.2: *“Ensure transparent decision making through open governance processes”*.

Further, the establishing the committees under the new Act and making the Instruments of Delegation are consistent with Strategic Objective 7: *“Ensure that ethical, financial and socially responsible decision making reflects community needs and is based on principles of accountability, transparency, responsiveness and consultation”*.

## 3. Background

Council has an established tradition of having the following three committees as part of the decision making processes of Council:

- Services Committee which meets to consider and discuss reports on issues such as traffic management, road closures, parking, family and children’s services and youth services.
- Urban Planning Committee which is the forum at which Council makes decisions in regard to issues relating to the *Planning and Environment Act 1987* and the *Building Act 1990*.
- Performance Management Review Committee which deals with all matters related to the management of the Chief Executive Officer’s contract of employment.

Instruments of Delegation represent the formal delegation of powers by Council. Delegations enable the business of Council to be carried out effectively, in line with Council approved policies. Section 11 of the Act provides that Council may, by Instrument of Delegation, delegate any power, duty or function of Council under the Act or any other Act, other than certain specified powers.

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

The current Instruments of Delegation for the Committees were adopted by Council on 27 February 2017 under the provisions of the *Local Government Act 1989*.

Section 11 of the Act requires Council to adopt new instruments of delegation by 1 September 2020. In accordance with sub section 11(7) of the Act the next review of these delegations will be required within twelve (12) months after the general election being held this year.

Consideration of the revised Instruments of Delegation in regard to the Committees of Council, as set out in this report, will achieve compliance with the obligations under the Act.

#### **4. Outline of key issues/options**

The amendments affecting the Committees as a result of the Act are:

- while the *Local Government Act 1989* referred to 'special committees' under section 86, the Act refers to 'delegated committees' established under section 63.
- as a result of the legislative change a new Council resolution and Instrument of Delegation for each delegated committee is required.
- the amended Instruments of Delegation are made pursuant to section 11(1) of the Act including a new condition imposed on Delegated Committees under section 11(5) that a delegation which includes the power to enter into a contract or make any expenditure must specify a maximum monetary limit that cannot be exceeded.

It is proposed the:

- Services Delegated Committee and the Urban Planning Delegated Committee expenditure is limited to \$20,000,000 (excluding GST); and
- Management Performance Review Delegated Committee expenditure is limited to \$50,000 (excluding GST).

Section 63 of the Act requires a delegated committee established by Council must include at least two councillors and may include any other persons appointed to the delegated committee by Council who are entitled to vote.

Under the Act the delegated committees must be chaired by a councillor appointed by the Council or the Mayor. It is proposed that Councillor Thompson and Councillor Ross continue to chair the Urban Planning Delegated Committee and the Services Delegated Committee respectively for the remainder of the current term of Council. This report recommends that all councillors are members of the Services Delegated Committee and the Urban Planning Delegated Committee.

In regard to the Management Performance Review Delegated Committee it is proposed that Councillor Addis, Councillor Sinfield, Councillor Watson and Councillor Wegman continue their appointment as members of this committee until the end of the current term of Council and Councillor Watson be appointed to the position of Chair for this committee.

If any of the three appointed delegated committee chairpersons are not present at the meetings of these committees the Act provides that a councillor who is present at the meeting is to be appointed chair for that meeting by members of the delegated committee who are present at the meeting.

Delegated committee meetings solely comprising of councillors, are required to be conducted in the same manner as the council meetings. This includes that a delegated committee may determine a meeting is to be closed to the public for specified reasons under section 66(2) of the Act, which includes:

- to consider confidential information; or
- security reasons; or
- to enable the meeting to proceed in an orderly manner.

A delegated committee can only close a meeting to the public for security reasons or for the meeting to proceed in an orderly manner, if arrangements have been made by the delegated committee to enable the proceedings of the meeting to be viewed by members of the public as the meeting is being held.

If the meeting is closed to the public to consider confidential information, the delegated committee must record in the minutes of the meeting the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of confidential information in section 3(1) of the Act, an explanation why the specified grounds applied, and make the minutes available for public inspection.

In regard to the Instrument of Delegation for the Urban Planning Delegated Committee it is noted that under the *Planning and Environment Act 1987* the Committee is subject to the provisions of section 188 of that Act. Section 188 provides a range of matters that cannot be delegated and therefore must be considered at a Council meeting rather than a meeting of the Urban Planning Delegated Committee. The conditions and limitations are specified in the Instrument of Delegation to the Urban Planning Delegated Committee.

## **5. Consultation/communication**

Council subscribes to the Maddocks Authorisations and Delegations Service, which provides advice regarding legislative amendments and template instruments.

Consultation has occurred with the Chief Executive Officer during the preparation of the revised Instrument.

## **6. Financial and resource implications**

Overall, the costs to prepare and adopt the revised Instrument are minimal and will be met within the current Governance departmental budget.

## **7. Governance issues**

The delegation of Council powers does not impact upon any of the protected rights or freedoms in the Victorian Human Rights Charter.

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

## **8. Social and environmental issues**

Remaking Council's delegations to the Committees ensures Council continues to comply with its obligations under the Act, by facilitating and enabling the business of Council to be carried out efficiently and in line with Council approved policies.

**Manager:** David Thompson, Governance

**Report officer:** Celia Robinson, Coordinator Governance



**Instrument of Delegation**  
**to the**  
**Services Special-Delegated Committee**

Boroondara City Council delegates to ~~the each person who is from time to time appointed as a member of the special Delegated eCommittee~~ established by resolution of Council passed on ~~20 24 August December 1999 2020~~ and known as the "**Services Special-Delegated Committee**" (the Committee), the powers and functions set out in the Schedule, and declares that:

- 1. ~~\_\_\_\_\_~~ this Instrument of Delegation is authorised by a resolution of Council passed on ~~27 24 August February 2017 2020~~;
- 1.2. ~~\_\_\_\_\_~~ a delegate can only exercise the delegations contained in this Instrument of Delegation while acting as a member of the Committee at a meeting of the Committee;
- 2.3. ~~\_\_\_\_\_~~ the delegation:
  - 2.3.1 ~~\_\_\_\_\_~~ comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
  - 2.3.2 ~~\_\_\_\_\_~~ remains in force until Council resolves to vary or revoke it; and
  - 2.3.3 ~~\_\_\_\_\_~~ is to be exercised in accordance with the exceptions, conditions and limitations set out in the Schedule and with regard to the guidelines or policies which Council from time to time adopts.
- 3.4. ~~\_\_\_\_\_~~ all members of the Delegated Committee will have voting rights on the Delegated Committee.

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:

\_\_\_\_\_  
(Mayor)

\_\_\_\_\_  
(Chief Executive Officer)

\_\_\_\_\_  
(Date)



## SCHEDULE

### Powers and functions

To exercise Council's functions and powers, perform Council's duties, determine any issue and take any action arising out of or connected with any duty imposed, or function or power conferred on Council, by or under any Act other than the *Planning and Environment Act 1987* and the *Building Act 1993*.

1. to enter into contracts, and to incur expenditure to a maximum monetary limit of ~~xx~~\$20,000,000 (excluding GST).
2. to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

~~, and do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.~~

### Exceptions, conditions and limitations

The members of the Delegated Committee ~~is~~ are not authorised by this Instrument to:

3. ~~enter into contracts, or incur expenditure, for an amount which exceeds \$20,000,000 (excluding GST).~~
4. ~~exercise the powers which, by force of section 86-11(2) of the Local Government Act 2020, cannot be delegated, namely:~~
  4. ~~the power of delegation;~~
  5. ~~the power to declare a rate or charge;~~
  6. ~~the power to borrow money;~~
  7. ~~the power to enter into contracts for an amount exceeding an amount previously determined by the Council;~~
  8. ~~the power to incur any expenditure exceeding an amount previously determined by the Council; and~~
  9. ~~any other prescribed power which cannot lawfully be delegated.~~
10. ~~adopt the Council Plan, Strategic Resource Plan, Budget or Revised Budget, Annual Report, Annual Financial Statements, Standard Statements, Performance Statement, or Audit Report under Part 6 of the Local Government Act 1989;~~
11. ~~make an application to a Councillor Conduct Panel;~~
12. ~~appoint or reappoint a Chief Executive Officer.~~



**Instrument of Delegation  
to the  
Urban Planning Special-Delegated Committee**

Boroondara City Council (**Council**) delegates to ~~the~~ each person who is from time to time appointed as a member of the Delegated eCommittee established by resolution of Council passed on ~~20-24 August December 1999-2020~~ and known as the "**Urban Planning Special-Delegated 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 27-24 August February 2017-2020;
- 1.2. a delegate can only exercise the delegations contained in this Instrument of Delegation while acting as a member of the Committee at a meeting of the Committee;
- 2.3. the delegation:
  - 2.13.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
  - 2.23.2 remains in force until Council resolves to vary or revoke it; and
  - 2.33.3 is to be exercised in accordance with the exceptions, conditions and limitations set out in the Schedule and with regard to the guidelines or policies which Council from time to time adopts.
- 3.4. all members of the Delegated Committee have voting rights on the Delegated Committee.

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:

\_\_\_\_\_  
(Mayor)

\_\_\_\_\_  
(Chief Executive Officer)

\_\_\_\_\_  
(Date)

## SCHEDULE

### Powers and functions

To exercise Council's powers, discretions and authorities to perform Council's functions under the *Planning and Environment Act 1987* and the *Building Act 1993* having regard to relevant policies and guidelines of the Council

1. to enter into contracts and to incur expenditure to a maximum monetary limit of \$20,000,000 (excluding GST).
- ~~1.2. and~~ to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

### Exceptions, conditions and limitations

The members of the Delegated Committee ~~is~~ are not authorised by this Instrument to:

3. enter into contracts, or incur expenditure, for an amount which exceeds \$20,000,000 (excluding GST).
4. 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.  
~~exercise the powers which, by force of section 86 of the *Local Government Act 1989*, cannot be delegated,~~  
namely:
  - ~~3.1 the power of delegation;~~
  - ~~3.2 the power to declare a rate or charge;~~
  - ~~3.3 the power to borrow money;~~
  - ~~3.4 the power to enter into contracts for an amount exceeding an amount previously determined by the Council;~~
  - ~~3.5 the power to incur any expenditure exceeding an amount previously determined by the Council; and~~
  - ~~3.6 any other prescribed power which cannot lawfully be delegated.~~
4. ~~exercise the powers which, by force of section 188 of the *Planning and Environment Act 1987* cannot be delegated, namely:~~
  - ~~4.1 the power of delegation;~~
  - ~~4.2 the powers of a planning authority to abandon or adopt amendments contained in sections 28 and 29;~~
  - ~~4.3 the power of a planning authority or responsible authority to appoint a committee to hear submissions under section 191;~~
  - ~~4.4 the powers of a responsible authority to apply for an injunction under section 125;~~

- ~~4.5 — the powers of a responsible authority to purchase, hold, lease and dispose of land by public auction, private treaty or otherwise under section 171(2)(b);~~
- ~~4.6 — the powers of a responsible authority to exchange land for other land and make any financial adjustment required as a result under section 171(2)(c);~~
- ~~4.7 — the powers of a responsible authority to consolidate, subdivide, re-subdivide and develop land for any purpose consistent with the planning scheme for which it is the responsible authority under section 171(2)(d);~~
- ~~4.8 — the power of a responsible authority to authorise any officer to carry out a duty or function or to exercise a power.~~



**Instrument of Delegation  
to the  
Management Performance Review  
Special-Delegated Committee**

Boroondara City Council delegates to ~~the special committee~~ each person who is from time to time appointed as a member of the Delegated Committee established by resolution of Council passed on ~~11 May 2009~~ 24 August 2020 and known as the "Management Performance Review Special Committee" (the Committee), the powers and functions set out in the Schedule, and declares that:

- 1. this Instrument of Delegation is authorised by a resolution of Council passed on ~~27 February 2017~~ 24 August 2020;
- 1-2. a delegate can only exercise the delegations contained in this Instrument of Delegation while acting as a member of the Committee at a meeting of the Committee;
- 2-3. the delegation:
  - 2-13.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
  - 2-23.2 remains in force until Council resolves to vary or revoke it; and
  - 3.3 is to be exercised in accordance with the guidelines or policies which Council from time to time adopts.
- 4. all members of the Delegated Committee will have voting rights on the Delegated Committee.

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:

\_\_\_\_\_  
(Mayor)

\_\_\_\_\_  
(Chief Executive Officer)

\_\_\_\_\_  
(Date)



## SCHEDULE

### Powers and functions

The Management Performance Review ~~Special-Delegated~~ Committee has the following powers and functions:

1. To exercise Council's powers and functions and to perform Council's duties in relation to the management of the Chief Executive Officer's Contract of Employment and to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers, including but not limited to:
  - a. determining arrangements for conduct of the Chief Executive Officer's performance review;
  - b. undertaking the annual review Chief Executive Officer's performance; and
  - c. undertaking the annual review Chief Executive Officer's total remuneration package.
2. To act as an advisory body for the Chief Executive Officer regarding organisational performance, management and good governance.
3. To enter into contracts, and to incur expenditure to a maximum monetary limit of \$50,000 (excluding GST);
4. 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:

1. ~~exercise the powers which, by force of section 86 of the Act, cannot be delegated, namely:~~
  - 1.1 ~~the power of delegation;~~
  - 1.2 ~~the power to declare a rate or charge;~~
  - 1.3 ~~the power to borrow money;~~
  - 1.4 ~~the power to enter into contracts for an amount exceeding an amount previously determined by the Council;~~
  - 1.5 ~~the power to incur any expenditure exceeding an amount previously determined by the Council;~~

- ~~1.6 any other prescribed power which cannot lawfully be delegated.~~
- 5. appoint, reappoint or dismiss a Chief Executive Officer.
- 6. enter into contracts, or incur expenditure, for an amount which exceeds \$50,000 (excluding GST);
- 7. exercise the powers which, by force section 11(2) of the Local Government Act 2020, cannot be delegated.



***Instrument of Delegation  
to the  
Services Delegated Committee***

**Boroondara City Council** delegates to each person who is from time to time appointed as a member of the Delegated Committee established by resolution of Council passed on 24 August 2020 and known as the "**Services Delegated Committee**" (**the Committee**), the powers and functions set out in the Schedule, and declares that:

1. this Instrument of Delegation is authorised by a resolution of Council passed on 24 August 2020;
2. a delegate can only exercise the delegations contained in this Instrument of Delegation while acting as a member of the Committee at a meeting of the Committee;
3. the delegation:
  - 3.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
  - 3.2 remains in force until Council resolves to vary or revoke it; and
  - 3.3 is to be exercised in accordance with the exceptions, conditions and limitations set out in the Schedule and with regard to the guidelines or policies which Council from time to time adopts.
4. all members of the Delegated Committee will have voting rights on the Delegated Committee.

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:

\_\_\_\_\_  
(Mayor)

\_\_\_\_\_  
(Chief Executive Officer)

\_\_\_\_\_  
(Date)



## SCHEDULE

### **Powers and functions**

To exercise Council's functions and powers, perform Council's duties, determine any issue and take any action arising out of or connected with any duty imposed, or function or power conferred on Council, by or under any Act other than the *Planning and Environment Act 1987* and the *Building Act 1993*.

1. to enter into contracts, and to incur expenditure to a maximum monetary limit of \$20,000,000 (excluding GST).
2. to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

### **Exceptions, conditions and limitations**

The members of the Delegated Committee are not authorised by this Instrument to:

3. enter into contracts, or incur expenditure, for an amount which exceeds \$20,000,000 (excluding GST).
4. exercise the powers which, by force of section 11(2) of the Local Government Act 2020, cannot be delegated.



***Instrument of Delegation  
to the  
Urban Planning Delegated Committee***

Boroondara City Council (**Council**) delegates to each person who is from time to time appointed as a member of the Delegated Committee established by resolution of Council passed on 24 August 2020 and known as the "**Urban Planning Delegated 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 24 August 2020;
2. a delegate can only exercise the delegations contained in this Instrument of Delegation while acting as a member of the Committee at a meeting of the Committee;
3. the delegation:
  - 3.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
  - 3.2 remains in force until Council resolves to vary or revoke it; and
  - 3.3 is to be exercised in accordance with the exceptions, conditions and limitations set out in the Schedule and with regard to the guidelines or policies which Council from time to time adopts.
4. all members of the Delegated Committee have voting rights on the Delegated Committee.

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:

\_\_\_\_\_  
(Mayor)

\_\_\_\_\_  
(Chief Executive Officer)

\_\_\_\_\_  
(Date)

## SCHEDULE

### Powers and functions

To exercise Council's powers, discretions and authorities to perform Council's functions under the *Planning and Environment Act 1987* and the *Building Act 1993* having regard to relevant policies and guidelines of the Council

1. to enter into contracts and to incur expenditure to a maximum monetary limit of \$20,000,000 (excluding GST).
2. to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

### Exceptions, conditions and limitations

The members of the Delegated Committee are not authorised by this Instrument to:

3. enter into contracts, or incur expenditure, for an amount which exceeds \$20,000,000 (excluding GST).
4. 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.



***Instrument of Delegation***  
***to the***  
***Management Performance Review***  
***Delegated Committee***

**Boroondara City Council** delegates to each person who is from time to time appointed as a member of the Delegated Committee established by resolution of Council passed on 24 August 2020 and known as the "**Management Performance Review Delegated Committee**" (**the Committee**), the powers and functions set out in the Schedule, and declares that:

1. this Instrument of Delegation is authorised by a resolution of Council passed on 24 August 2020;
2. a delegate can only exercise the delegations contained in this Instrument of Delegation while acting as a member of the Committee at a meeting of the Committee;
3. the delegation:
  - 3.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
  - 3.2 remains in force until Council resolves to vary or revoke it; and
  - 3.3 is to be exercised in accordance with the guidelines or policies which Council from time to time adopts.
4. all members of the Delegated Committee will have voting rights on the Delegated Committee.

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:

\_\_\_\_\_  
(Mayor)

\_\_\_\_\_  
(Chief Executive Officer)

\_\_\_\_\_  
(Date)



## SCHEDULE

### Powers and functions

The Management Performance Review Delegated Committee has the following powers and functions:

1. To exercise Council's powers and functions and to perform Council's duties in relation to the management of the Chief Executive Officer's Contract of Employment and to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers, including but not limited to:
  - a. determining arrangements for conduct of the Chief Executive Officer's performance review;
  - b. undertaking the annual review Chief Executive Officer's performance; and
  - c. undertaking the annual review Chief Executive Officer's total remuneration package.
2. To act as an advisory body for the Chief Executive Officer regarding organisational performance, management and good governance.
3. To enter into contracts, and to incur expenditure to a maximum monetary limit of \$50,000 (excluding GST);
4. 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:

1. appoint, reappoint or dismiss a Chief Executive Officer.
2. enter into contracts, or incur expenditure, for an amount which exceeds \$50,000 (excluding GST);
3. exercise the powers which, by force section 11(2) of the Local Government Act 2020, cannot be delegated.