

## 7.2 Review of Instrument of Delegations to Delegated Committee's

### Abstract

Section 11(7) of the Local Government Act 2020 (the Act) requires Council to review all delegations which have been made under section 11 of the Act within 12 months of a general election.

Council reviewed the Instrument of Delegation from Council to Council Staff and the Instrument of Delegation from Council to the Chief Executive Officer on 28 June 2021. Council must now also review the:

- Instrument of Delegation from Council to the Urban Planning Delegated Committee; and
- Instrument of Delegation from Council to the Services Delegated Committee

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.

Council officers are of the view the Council has been well served by both the Urban Planning Delegated Committee and the Services Delegated Committee. Therefore, no changes to the structure or level of delegation are proposed. Nonetheless, a new Council resolution is required to reflect the current members and Chairperson of both delegated committees.

### Officers' recommendation

1. In the exercise of the power conferred by section 63 of the Local Government Act and section 188 of the Planning and Environment Act 1987, Council resolves that:
  - a. There be delegated to the members of the Urban Planning Delegated Committee the powers, duties and functions set out in the Instrument of Delegation at **Attachment 1** (as annexed to the minutes);
  - b. The members of the Urban Planning Delegated Committee are all eleven elected Councillors of Boroondara City Council;
  - c. The Chairperson of the Urban Planning Delegated Committee is as appointed, by Council resolution, annually at the Special Council Meeting held in November as per the Governance Rules.
  - d. The powers, duties and functions conferred on the members of the Urban Planning Delegated Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.
2. In the exercise of the power conferred by section 63 of the Local Government Act (the Act), Council resolves that:
  - a. There be delegated to the members of the Services Delegated Committee the powers, duties and functions set out in the Instrument of Delegation at **Attachment 2** (as annexed to the minutes);

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- b. The members of the Services Delegated Committee are all eleven elected Councillors of Boroondara City Council;
    - c. The Chairperson of the Services Delegated Committee is as appointed, by Council resolution, annually at the Special Council Meeting held in November as per the Governance Rules.
    - d. The powers, duties and functions conferred on the members of the Services Delegated Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.
  3. 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.
  4. On the coming into force the instruments of previous delegation to the Urban Planning Delegated Committee and the Services Delegated Committee are revoked.
  5. The Instruments be sealed.

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**Responsible officer: Phillip Storer, Chief Executive Officer**

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## **1. Purpose**

The purpose of this report is for Council to review the:

- Instrument of Delegation from Council to the Urban Planning Delegated Committee (**Attachment 1**);
- Instrument of Delegation from Council to the Services Delegated Committee (**Attachment 2**); and

## **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**

Section 11 of the Local Government Act 2020 (the Act) empowers a Council, by Instrument of Delegation, to delegate to the members of a delegated committee any Council is power, duty or function with some strategic exemptions such as the setting of rates, borrowing funds, adopting a planning scheme amendment and adopting a budget.

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

- Urban Planning Delegated 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.
- Services Delegated 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.

The Urban Planning Delegated Committee and the Services Delegated Committee were both established by Council resolution on 24 August 2020. The Instruments of Delegation for both committee’s were also both endorsed at this Council meeting.

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

Section 11(7) of the Act requires Council to review all delegations which have been made under section 11 of the Act within 12 months of a general election, 24 October 2021.

Council officers are of the view the Council has been well served by the existing committee structure and level of delegation to both committees.

As such, the revised Instrument of Delegation to the Urban Planning Delegated Committee and the Services Delegated Committee are consistent with the previous instruments.

It is important to note that Council must adopt a Procurement Policy by 31 December 2021. Officers will give consideration to whether this policy has any intended or unintended consequences to these delegations once the policy is adopted.

## **5. Consultation/communication**

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.

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

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

## **7. Governance issues**

No member of Council staff involved in advising or in preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities Act 2006 (the Charter). The proposed amendments to the Instruments of Delegation is not considered to infringe unreasonably upon any prescribed human right, freedom or responsibility contained in the Charter.

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

Reviewing 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.

Effective and efficient delegations will reinforce public confidence in the integrity of Council's decision making processes and in the Council's ability to ensure good corporate governance within the municipality.

**Manager:** David Thompson, Manager Governance and Legal

**Report officer:** Kirstin Ritchie, Coordinator Governance



## ***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 26 July 2021;
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 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 26 July 2021;
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.