

COUNCIL MEETING

REVISED AGENDA



(Open to the public)

6.30pm, Monday 27 March 2023

Council Chamber - 8 Inglesby Road, Camberwell

Date of Issue: 24 March 2023

Please note: No audio, video, photographic or any other recording of proceedings at Council or Delegated Committee meetings is permitted without written authority from Council.

Order of Business

- 1 Adoption and confirmation of the minutes for the Council meeting held on 27 February 2023**
- 2 Declaration of conflict of interest of any councillor or council officer**
- 3 Deputations, presentations, petitions and public submissions**
 - 3.1 Deputation - Ms Judith Toohey
 - 3.2 Petitions
- Informal Meetings of Councillors**
- 5 Public question time**
- 6 Notices of motion**
- 7 Presentation of officer reports**
 - 7.1 Disability Inclusion Bill Exposure Draft
 - 7.2 Neighbourhood Houses Framework Report
 - 7.3 Amendment C367boro - 57 & 60 Berkeley Street Hawthorn Heritage Overlay - Decision to Adopt
 - 7.4 Contract No 2022/131 - Transactional Banking Services
 - 7.5 January 2023 Monthly Financial Report
 - 7.6 Contract No 2022/28 - Electrical Services

- 7.7 MAV Membership
- 7.8 Rear 218-224 High Street, Kew - Proposed sale of Council land
- 7.9 Rear 6 Kooyongkoot Road, Hawthorn - Proposed sale of Council land
- 7.10 Review of Instrument of Delegation Council to Council Staff

Supplementary reports

- 7.11 Revised Instruments of Appointment and Authorisation - Council to Council Staff
- 7.12 Instrument of Sub-Delegation & Instrument of Appointment and Authorisation - Environment Protection Act 2017
- 7.13 Provision of Loan Borrowings 2022/23

8 General business

9 Urgent business

10 Confidential business

Close of meeting

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7 Presentation of officer reports

7.11 Revised Instruments of Appointment and Authorisation - Council to Council Staff

Executive Summary

Purpose

The purpose of this report is for Council to consider executing an Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987*.

The Instrument presented to Council is for the appointment and authorisation of staff from the Planning and Placemaking Department. A copy of the Instrument is at **Attachment 1**.

Background

Maddocks recommend that officers enforcing the *Planning and Environment Act 1987* be authorised by Council resolution and that Instruments of Appointment and Authorisation be refreshed on a regular basis. The last review of this Instrument occurred in March 2022.

Key Issues

Council subscribes to the Maddocks Authorisations and Delegations Service, and relevant advice has been considered in the preparation of this report and the Instrument of Appointment and Authorisation.

This Instrument of Appointment and Authorisation has also been prepared following feedback from the Planning and Placemaking Department.

Next Steps

The Instrument will be refreshed biannually to ensure any staffing changes within the Planning and Placemaking Department are captured. Officers expect another report to be presented to Council in late 2023 with a refreshed Instrument to reflect this.

Officers' recommendation

That Council resolve, in the exercise of the powers conferred by section 224 of the *Local Government Act 1989* (Vic) and the other legislation referred to in the attached Instrument of Appointment and Authorisation, that:

1. The members of Council staff referred to in the Instrument of Appointment and Authorisation (Attachment 1 as annexed to the minutes) be appointed and authorised as set out in the Instrument.
2. The Instrument of Appointment and Authorisation comes into force immediately once the common seal of Council is affixed to the Instrument, and remains in force until Council determines to vary or revoke it.
3. The Instrument of Appointment and Authorisation be sealed.
4. On the coming into force of the Instrument all previous Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987* are revoked.

Responsible director: Phillip Storer, Chief Executive Officer

1. Purpose

The purpose of this report is for Council to consider executing an Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987*.

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

The Instrument of Appointment and Authorisation relates to Theme 7: Leadership and Governance in the Boroondara Community Plan 2021-2031.

The Instrument of Appointment and Authorisation is also consistent with Strategic Objective 7.1: Decision making is transparent and accountable through open governance processes with timely communication and reporting.

The appointment of authorised officers is a purely administrative exercise.

3. Background

Instruments of Appointment and Authorisation empower relevant staff to exercise the powers granted to authorised officers by legislation or a local law.

The Instruments of Appointment and Authorisation prepared for Council's consideration are based on advice from the Maddocks Authorisations and Delegations Service.

Maddocks recommend that officers enforcing the *Planning and Environment Act 1987* be authorised by Council resolution and that Instruments of Appointment and Authorisation be refreshed on a regular basis. The instruments are reviewed by Governance as required to ensure they are up to date. The previous review occurred in March 2022.

4. Outline of key issues/options

The Instrument presented to Council is for the appointment and authorisation of staff from the Planning and Placemaking Department. A copy of the Instrument is at **Attachment 1**.

5. Consultation/communication

Council subscribes to the Maddocks Authorisations and Delegations Service, and relevant advice has been considered in the preparation of this report.

This Instrument of Appointment and Authorisation has been prepared following feedback from the Planning and Placemaking Department.

6. Financial and resource implications

The costs to prepare and adopt the Instrument are minimal and met within the current Governance departmental budget.

7. Governance issues

The implications of this report have been assessed and are not considered likely to breach or infringe upon, the human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006.

The officers responsible for this report have no general or material interests requiring disclosure.

8. Social and environmental issues

There are no social or environmental issues associated with the appointment of authorised officers.

Manager: **Bryan Wee, Manager Governance and Legal**

Report officer: Elizabeth Manou, Senior Governance and Integrity Officer

Boroondara City Council

Instrument of Appointment and Authorisation

(Planning and Environment Act 1987)

Aileen Chin	Principal Urban Planner
Ali Turvey	Para Planning Officer
Amaya De Silva	Senior Urban Planner
Brendan Rea	Planning Investigations Officer
Calum Schwindt	Urban Planner
Cassandra Rea	Coordinator Urban Planning
Cynthia Pizzati	Para Planning Officer
Cheng Chea	Para Planning Officer
Chiara Lorini	Senior Urban Planner
Christopher Spencer	Team Leader Urban Planning Forester
Damian Bu	Senior Urban Planner
Daniel Murphy	Planning Appeals Co-ordinator
Darshankumar (Darshan) Vachhani	Development Transport Engineer
Daniela Splitgerber	Senior Urban Planner
David Barclay	Development Drainage Engineer
David Cowan	Manager Planning & Placemaking
Edward Howe	Urban Planner
Elizabeth Spanjer	Senior Urban Planner
Erin McCarthy	Coordinator Urban Planning
Gregory (Greg) Pocock	Para Planning Officer
Gregory (Greg) Stewart	Senior Urban Planner
Ida LaRocca	Para Planning Officer
Jack Richardson	Senior Urban Planner
Jessica Nedelkos	Para Planning Officer
Jennifer Estrada	Para Planning Officer
Joel Torresi	Urban Planner

Jock Farrow	Principal Urban Planner
Jon Harper	Coordinator Urban Planning
Jonathan Welcome	Investigations Officer
Joshua Lewis	Urban Planner
Jordan Schonberg	Urban Planner
Karen Reid	Para Planning Officer
Kathy Fletcher	Urban Planner
Kelly Caporaso	Principal Urban Planner
Lachlan Waddell	Urban Planner
Lebon Ferri	Environmental Design Officer
Lucy Johnson	Principal Urban Planner
Matt Aitken	Prosecutions Officer
Michael Burton	Public Notice Officer
Mridula Krishna	Urban Planner
Nick Hulston	Investigations Officer
Nikhil Shah	Urban Planner
Scott Lipscombe	Senior Development Transport Engineer
Scott Walker	Director Urban Living
Simon Elliott	Landscape Compliance Officer
Simon Quinn	Para Planning Officer
Sofia Skliris	Team Leader Para Planning
Stephanie Ng	Coordinator Urban Planning
Sylvia Georges	Urban Designer
Timothy Luckin	Senior Subdivision Officer/
Toni Johnson	Para Planning Officer
Vanessa Kwaczynski	Administration Officer
Zac Fisher	Urban Planner

Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*)

In this instrument "**officer**" means -

Aileen Chin	Daniela Splitgerber	Joel Torresi	Nick Hulston
Ali Turvey	David Barclay	Jon Harper	Nikhil Shah
Amaya De Silva	David Cowan	Jonathan Welcome	Scott Lipscombe
Brendan Rea	Edward Howe	Joshua Lewis	Simon Elliott
Calum Schwindt	Elizabeth Spanjer	Jordan Schonberg	Scott Walker
Cassandra Rea	Erin McCarthy	Karen Reid	Simon Quinn
Cynthia Pizzati	Gregory (Greg) Pocock	Kathy Fletcher	Sofia Skliris
Cheng Chea	Gregory (Greg) Stewart	Kelly Caporaso	Stephanie Ng
Chiara Lorini	Ida LaRocca	Lachlan Waddell	Sylvia Georges
Christopher Spencer	Jack Richardson	Lebon Ferri	Timothy Luckin
Damian Bu	Jessica Nedelkos	Lucy Johnson	Toni Johnson
Daniel Murphy	Jennifer Estrada	Matt Aitken	Vanessa Kwaczynski
Darshankumar (Darshan) Vachhani	Jock Farrow	Michael Burton	Zac Fisher
		Mridula Krishna	

By this instrument of appointment and authorisation Boroondara City Council -

1. under section 147(4) of the *Planning and Environment Act 1987* - appoints the officers to be authorised officers for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under section 313 of the *Local Government Act 2020* authorises the officers generally to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that -

- (a) this instrument comes into force immediately upon its execution and remains in force until varied or revoked;
- (b) this instrument must not be exercised in a manner which is inconsistent with Council's corporate position.
- (c) on the coming into force of this instrument, any previous Instruments of Appointment and Authorisation to the members of Council staff named above are revoked.

This instrument is authorised by a resolution of the **Boroondara City Council** on 27 March 2023.

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

..... Chief Executive Officer

..... Councillor

..... Date

7.12 Instrument of Sub-Delegation & Instrument of Appointment and Authorisation - Environment Protection Act 2017

Executive Summary

Purpose

The purpose of this report is for Council to consider executing an Instrument of Sub-Delegation from Council to Members of Council Staff, and an Instrument of Appointment and Authorisation under the *Environment Protection Act 2017*.

Background

The *Environment Protection Act 2017* (the Act) and the *Environment Protection Regulations 2021* (the Regulations) came into effect on 1 July 2021.

Council last adopted an Instrument of Sub-Delegation from Council to Members of Council Staff and Instruments of Appointment and Authorisation under the Act, on 28 October 2021.

Officers are now presenting a refreshed Instrument of Sub-Delegation from Council to Members of Council Staff (**Attachment 1**), and an Instrument of Appointment and Authorisation (**Attachment 2**) under the Act for adoption, to capture staffing changes in the Civic Services Department.

Key Issues

Council subscribes to the Maddocks Authorisations and Delegations Service, and relevant advice has been considered in the preparation of this report and the Instrument of Appointment and Authorisation.

This Instruments have also been prepared following feedback from the Civic Services Department.

Next Steps

The Instruments will be refreshed as needed to ensure any staffing changes within the Civic Services Department are captured.

Officers' recommendation

1. In the exercise of the power conferred by s 437(2) of the Environment Protection Act 2017 (the Act) and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, Boroondara City Council (Council) resolves that:
 - a) 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 (**Attachment 1**, as annexed to the minutes), the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
 - b) The instrument comes into force immediately the common seal of Council is affixed to the instrument, and remains in force until Council determines to vary or revoke it.

- c) The instrument be sealed.
 - d) On the coming into force of the instrument all previous delegations to members of Council staff under the Act are revoked.
 - e) The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
2. In the exercise of the power conferred by s 242(2) of the Environment Protection Act 2017 and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, Boroondara City Council (Council) resolves that:
- a) The members of Council staff referred to in the instrument (**Attachment 2**, as annexed to the minutes) be appointed and authorised as set out in the instrument.
 - b) The instrument comes into force immediately the common seal of Council is affixed to the instrument, and remains in force until Council determines to vary or revoke it.
 - c) The instrument be sealed.
 - d) On the coming into force of the instrument all previous instruments of appointment and authorisation under the Environment Protection Act 2017 are revoked.

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

1. Purpose

The purpose of this report is for Council to review and adopt the Instrument of Sub-Delegation from Council to Members of Council Staff (**Attachment 1**) and the Instrument of Appointment and Authorisation (**Attachment 2**) made under the *Environment Protection Act 2017*.

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

The Instruments relate to Theme 7: Leadership and Governance in the Boroondara Community Plan 2021-2031.

The Instruments are also consistent with Strategic Objective 7.1: Decision making is transparent and accountable through open governance processes with timely communication and reporting.

3. Background

The Environment Protection Act 2017 (the Act) and *Environment Protection Regulations 2021* (the Regulations) came into effect on 1 July 2021.

Council received formal notification from the EPA in June 2021 to advise that they had delegated new powers to councils under the Act. The delegation applies to the regulation of:

- on-site wastewater management systems not exceeding 5000 litres on any day; and
- noise from construction, demolition and removal of residential premises.

The EPA's Governing Board approved the Instrument of Delegation and the Instrument of Direction on 4 June 2021. These Instruments enable Council to take necessary steps to assume the new powers under the Act and the Regulations.

4. Outline of key issues/options

By virtue of section 437(2) of the Act, Council has the power to sub-delegate the powers contained in the EPA's Governing Board approved Instrument of Delegation to members of Council staff.

The powers, duties and functions described and summarised in the Schedule of Attachment 1, are only delegated for the purpose of regulating:

- onsite wastewater management systems with a design or actual flow rate of sewage not exceeding 5000 litres on any day; and
- noise from the construction, demolition or removal of residential premises

Where Council has sub-delegated EPA powers and functions under s437(2) of the Act, the members of Council staff must be authorised officers under s242(2) of the Act. As such, a new Instrument of Appointment and Authorisation is included as **Attachment 2** to this report.

A delegate must comply with the conditions of delegation as well as any policies of Council and any legislative framework. Council can still exercise any delegated power, duty or functions itself by resolution in the Chamber. Further, authorised officers must exercise the powers in accordance with the EPA's approved Instrument of Direction.

The attached Instrument of Sub-Delegation (**Attachment 1**) and Instrument of Appointment and Authorisation (**Attachment 2**) are recommended for the effective and efficient operations of Council's activities, as well as to enable routine and administrative tasks to be carried out with consistency and certainty.

5. Consultation/communication

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

Consultation with the Civic Services Department has taken place in the preparation of the proposed Instruments.

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

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: Bryan Wee, Manager Governance and Legal

Report officers: Elizabeth Manou, Senior Governance and Integrity Officer

Boroondara City Council

Instrument of Sub-Delegation

to

Members of Council staff

Instrument of Sub-Delegation

By this Instrument of Sub-Delegation, in exercise of the power conferred by s 437(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, the Council:

1. delegates each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described in column 3 of the Schedule;
2. record that references in the Schedule are as follows

AMO	means	Animal Management Officer
APO	means	Asset Protection Officer
CPLAC	means	Coordinator Parking, Local Laws, Animal Management and Crossings
CHPP	means	Coordinator Health, Projects and Prosecutions
CPAPA	means	Coordinator Permits Appeals and Protection of Assets
DUL	means	Director Urban Living
EHO	means	Environmental Health Officer
LL	means	Local Laws Officer
MCS	means	Manager Civic Services
PO	means	Parking Officer
PROS	means	Prosecutor
PSO	means	Projects and Strategy Officer
SAPCO	means	Senior Asset Protection and Compliance Officer
TLFS	means	Team Leader Field Services
TLHS	means	Team Leader Health Services
TLPT	means	Team Leader Parking Services

3. this Instrument of Sub-Delegation is authorised by a resolution of Council passed on 27 March 2023 pursuant to a power of sub-delegation conferred by the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021;
4. the delegation:
 - 4.1 comes into force immediately the common seal of Council is affixed to this Instrument of Sub-Delegation;
 - 4.2 remains in force until varied or revoked;
 - 4.3 is subject to any conditions and limitations set out in sub-paragraph 5, and the Schedule; and
 - 4.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
5. this Instrument of Sub-Delegation is subject to the following limitations:
 - 5.1 the powers, duties and functions described in column and summarised in column 2 of the Schedule are only delegated for the purpose of regulating:
 - 5.1.1 onsite wastewater management systems with a design or actual flow rate of sewage not exceeding 5000 litres on any day; and
 - 5.1.2 noise from the construction, demolition or removal of residential premises;

Instrument of Sub-delegation to members of Council staff (*Environment Protection Act 2017*)

6. the delegate must not determine the issue, take the action or do the act or thing:
- 6.1 if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
 - 6.2 if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a
 - (a) policy; or
 - (b) strategyadopted by Council;
 - 6.3 if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation; or
 - 6.4 the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.

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

..... Chief Executive Officer

..... Councillor

..... Date

Instrument of Sub-delegation to members of Council staff (*Environment Protection Act 2017*)

SCHEDULE

Instrument of Sub-delegation to members of Council staff (*Environment Protection Act 2017*)

ENVIRONMENT PROTECTION ACT 2017			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 271	Power to issue improvement notice	AMO, APO, CPLAC, CHPP, CPAPA, DUL, EHO, LL, MCS, PO, PROS, PSO, SAPCO, TLHS, TLFS, TLPT	
s 272	Power to issue prohibition notice	AMO, APO, CPLAC, CHPP, CPAPA, DUL, EHO, LL, MCS, PO, PROS, PSO, SAPCO, TLHS, TLFS, TLPT	
s 279	Power to amend a notice	AMO, APO, CPLAC, CHPP, CPAPA, DUL, EHO, LL, MCS, PO, PROS, PSO, SAPCO, TLHS, TLFS, TLPT	

s 358	Functions of the Environment Protection Authority	AMO, APO, CPLAC, CHPP, CPAPA, DUL, EHO, LL, MCS, PO, PROS, PSO, SAPCO, TLHS, TLFS, TLPT	
s 359(1)(b)	Power to do all things that are necessary or convenient to be done for or in connection with the performance of the Environment Protection Authority's functions and duties and to enable the Authority to achieve its objective.	AMO, APO, CPLAC, CHPP, CPAPA, DUL, EHO, LL, MCS, PO, PROS, PSO, SAPCO, TLHS, TLFS, TLPT	
s 359(2)	Power to give advice to persons with duties or obligations	AMO, APO, CPLAC, CHPP, CPAPA, DUL, EHO, LL, MCS, PO, PROS, PSO, SAPCO, TLHS, TLFS, TLPT	

Boroondara City Council

Instrument of Appointment and Authorisation
(*Environment Protection Act 2017*)

Instrument of Appointment and Authorisation (*Environment Protection Act 2017*)

In this instrument "**officer**" means -

Andre Peters	Team Leader Parking Services
Alex Ilievski	Parking Officer
Anastasia Matete	Parking Officer
Andrew Lloyd	Environmental Health Officer
Andrew Salisbury	Senior Parking Officer
Anthony Beck-Godoy	Asset Protection Enforcement Officer
Brad Mc Mahon	Senior Asset Protection Enforcement Officer
Cailin Johnston	Senior Permits and Appeals Officer
Can Doruk	Parking Officer
Charlotte Ayers	Permits and Appeals Officer
Chris McKee	Parking Officer Casual
David Lennox	Parking Officer
Eileen Clinch	Animal Management Officer
Ellen Hill	Environmental Health Officer
Florin Boiciuc	Parking Officer
Gabriel Dorning	Animal Management Officer
Holly Mills	Permits and Appeals Officer
James Sidonie	Animal Management Officer
Jamie Chinga	Parking Officer
Jessica Longstaff	Permits and Appeals Officer
Giuseppe (Joe) Luppino	Parking Officer

John Privitelli	Local Laws Officer
Jorge Contreras	Parking Officer
Joseph Elbaum	Asset Protection Enforcement Officer
Jubaidul Jekab	Local Laws Officer
Karanvir Singh	Parking Officer
Leanne Roberts	Asset Protection Enforcement Officer
Leonardo (Leo) Manca	Coordinator Health, Projects and Prosecutions
Lorenzo Gullone	Environmental Health Officer
Magnus Viljoen	Environmental Health Officer
Maryanne Dahaby	Team Leader Permits and Appeals
Matt Aitken	Prosecutions Officer
Matthew Juers	Environmental Health Officer
Meihua Li	Permits and Appeals Officer
Michael O'Connor	Asset Protection Enforcement Officer
Michelle Cant	Parking Officer (Night)
Michelle Spicer	Health Services Support
Mirella Manfre	Coordinator Permits Appeals and Protection of Assets
Nigel Wright	Parking Officer
Nileshkumar Jani	Parking Officer
Noppawoot Suravilas	Parking Officer
Paul Bryan Mitchelmore	Manager Civic Services
Penelope Anastasiadis	Environmental Health Officer
Rachael Oats	Local Laws Officer and Parking Officer

Philippa Lee Treloar	Asset Protection Enforcement Officer
Robert Beattie	Emergency Management Project Officer
Robert Marshall	Parking Officer
Robert Weis	Team Leader Health Services
Roselyn Lawton	Animal Management Officer
Rosetta (Rose) Locke	Local Laws Officer
Sam Temov	Parking Officer
Scott Walker	Director Urban Living
Serena Horg	Coordinator Parking, Local Laws, Animal Management and School Crossings
Shariq Ali	Parking Officer
Shaun Whittle	Local Laws Officer
Simon Elliott	Local Laws Officer
Stefanie Daniliuk	Local Laws Officer
Steve Burgess	Team Leader Local Laws and Animal Management
Tim O'Reilly	Parking Officer
Tom Vandenbroek	Parking Officer
Tricia Coghlan	Permits and Appeals Officer
Virginie Geoffroy	Parking Officer (Night)
Visalini Srishan	Permits and Appeals Officer
Warren Norton	Local Laws Officer
Will Carroll	Environmental Health Officer

By this instrument of appointment and authorisation Boroondara City Council –

1. under s 242(2) of the *Environment Protection Act 2017* ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021 - appoints the officers to be authorised officers for the purposes of exercising the powers and functions set out in the Instrument of Direction of the Environment Protection Authority under the Act dated 4 June 2021.
2. under s 114(2) of the *Environment Protection Act 2017* - appoints the officers to be litter enforcement officers for the purposes of s 114(2) of the *Environment Protection Act 2017*
3. under s 347(4) of the *Environment Protection Act 2017* authorises the officers to take proceedings against the *Environment Protection Act 2017* or the regulations under this Act.
4. under s 171 of the *Environment Protection Act 2017* – appoints the officers to be residential noise enforcement officers for the purposes of s 171 of the *Environment Protection Act 2017*
5. under s 170 of the *Environment Protection Act 2017* authorises the officers to take proceedings against certain offences under the *Environment Protection Act 2017* or the regulations under this Act.
6. under s 242(2) of the *Environment Protection Act 2017* – appoints the officers for the purposes of the power or function delegated to Council under s 437(1) of the Act.

under –

- s 170(2), 170(4), 170(6) of the *Environment Protection Act 2017*
- s 347(4) of the *Environment Protection Act 2017*
- s 347(3) of the *Environment Protection Act 2017* and r 171 of the *Environment Protection Regulations 2021*
- s 347(7) of the *Environment Protection Act 2017*

authorises the officers generally to institute proceedings and represent Council in proceedings for offences against the Acts, Regulations and local laws described in this instrument

It is declared that this instrument -

- a) comes into force immediately upon its execution
- b) remains in force until varied or revoked
- c) on the coming into force of this instrument, any previous Instruments of Appointment and Authorisation under the *Environment Protection Act 2017* or the regulations under this Act to the members of Council staff named above, are revoked.

This instrument is authorised by a resolution of the Boroondara City Council on 27 March 2023

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

..... Chief Executive Officer

..... Councillor

..... Date

7.13 Provision of Loan Borrowings 2022/23

Executive Summary

Purpose

Council approval is required to borrow funds and it is proposed to authorise the Chief Executive Officer or his delegate to source borrowings from the Treasury Corporation of Victoria (TCV) and execute the required loan documentation under delegation.

Background

Council has current loan borrowings with the National Australia Bank which are due to expire on the 31 May 2023 and will require a final installment of \$19.7 million to complete the loan and discharge loan obligations. The 2022-23 Budget provided for refinancing of these existing loan borrowings to support the delivery and renewal of required infrastructure to the community in light of COVID losses exceeding \$50 million.

Key Issues

Council's Long Term Financial Strategy has provided for refinance of these borrowings of \$19.7 million with principal and interest repayment over 10 years with interest fixed.

Next Steps

Upon approval by Council, a \$19.7 million loan with principal and interest repayments over 10 years will be procured through the TCV.

Officers' recommendation

That Council resolve to:

1. Borrow the amount of \$19.7 million from the Treasury Corporation Victoria, for a term of 10 years with interest fixed.
2. Authorise the Chief Executive Officer or his delegate to execute the required loan documentation under delegation.

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

1. Purpose

The purpose of this report is to seek Council approval for the refinancing of \$19.7 million in borrowings by 31 May 2023.

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

This report is consistent with the following themes and strategies in the Council Plan 2021-25 and the Boroondara Community Plan 2021-31. In particular, Theme 7 “Leadership and Governance” Strategy 7.2.

3. Background

As per the 2022-23 Budget, Council proposed to borrow \$19.7 million to refinance current loan borrowings expiring 31 May 2023.

4. Outline of key issues/options

The Treasury Corporation of Victoria (TCV) is the central financing authority for the State of Victoria, and in more recent years this has extended to the provision of borrowings to the Local Government Sector. This allows Council to source borrowings at competitive rates beyond those provided by institutional banks.

Council tested this through its tender for borrowings undertaken in April 2022. This tender process confirmed that the TCV was able to offer borrowing rates well below that of an institutional bank and in fact highlighted that institutional banks were no longer tendering for local government borrowings. Council only received two submissions in response to this tender process. As such it is recommended that borrowings be directly sourced from the TCV.

Council’s Long Term Financial Strategy has provided for a 10 year fixed interest rate loan.

5. Consultation/communication

In developing Council's Long Term Financial Strategy, Council has identified borrowings as a funding source for the creation of income generating assets and assets servicing current and future generations.

6. Financial and resource implications

The Long Term Financial Strategy prepared for the 2022-23 budget year accommodates the recommended borrowings and factors in full repayment by 31 May 2033.

An assumed interest rate of 5.0% has been applied to these borrowings and included in the Long Term Financial Strategy. As of the drafting of this report the current interest rate for a ten year fixed loan with the TCV was 4.3%. Any interest rate saving below current assumptions will have a positive effect to Council’s long term financial position.

7. Governance issues

The Local Government Act 2020 section 11 provides that a Council may by instrument of delegation delegate any power, duty or function of a Council under this Act or any other Act other than a power, duty or function specified in subsection (2). Subsection (2) (l) specifies the power to borrow money.

A Council decision is therefore required to borrow funds.

No officers involved in the preparation of this report have a general or material conflict of interest requiring disclosure under Chapter 5 of the Governance Rules of Boroondara City Council.

The recommendation contained in this report is compatible with the Charter of Human Rights and Responsibilities 2006 as it does not raise any human rights issues.

8. Social and environmental issues

No direct applicable issues.

9. Evaluation and review

Analysis of Council's long-term cash budget reveals an ability to repay borrowings over a ten year period. In addition, given the current interest rate market and rising interest rates a fixed term loan would offer certainty regarding repayments without the risk of further interest rate rises impacting Council's financial position. The loan will be sourced at a fixed interest rate on a \$19.7 million loan, with a loan term of 10 years.

Manager: Amy Montalti, Chief Financial Officer

Report officer: Amy Montalti, Chief Financial Officer