

7.2 Instrument of Appointment and Authorisation - Environment Protection Act 2017 & Planning and Environment Act 1987

Executive Summary

Purpose

This report brings to two Instruments of Appointment and Authorisation under the *Environment Protection Act 2017* and the *Planning and Environment Act 1987* to consider executing. These Instruments propose to appoint and authorise staff in the Urban Living Directorate to regulate:

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

Background

Maddocks recommend that officers enforcing the *Planning and Environment Act 1987* be authorised by Council resolution and for relevant Instruments of Appointment and Authorisation to be refreshed regularly.

To ensure that the Instruments are up to date and account for staffing changes within the organisation, officers undertake a review of the Instruments bi-annually. The last review of this Instrument occurred in December 2023. Council last adopted an Instrument of Appointment and Authorisation under the *Environment Protection Act 2017* in February 2024.

There were no legislative changes relevant in the current review requiring change to the Instruments. The changes to the Instruments relate to staffing arrangements in the Urban Living Directorate.

Key Issues

Officers present a refreshed Instrument of Appointment and Authorisation under the *Environment Protection Act 2017* (**Attachment 1**), and an Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* (**Attachment 2**) for adoption.

Next Steps

The Instruments will be refreshed as needed to ensure any staffing changes within the Urban Living Directorate are captured.

Officers' recommendation

1. 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 resolves that:
 - a) The members of Council staff referred to in the Instrument (**Attachment 1** as annexed to the minutes) be appointed and authorised as set out in the Instrument.
 - b) The Instrument comes into force immediately upon the common seal of Council being affixed to the Instrument and remains in force until Council determines to vary or revoke it.
 - c) The Instrument be sealed.
2. 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:
 - a) The members of Council staff referred to in the Instrument of Appointment and Authorisation (**Attachment 2** as annexed to the minutes) be appointed and authorised as set out in the Instrument.
 - b) The Instrument of Appointment and Authorisation comes into force immediately upon the common seal of Council being affixed to the Instrument and remains in force until Council determines to vary or revoke it.
 - c) The instrument of Appointment and Authorisation be sealed.

Responsible director: Phillip Storer, Chief Executive Officer

1. Purpose

The purpose of this report is for Council to review and adopt the Instrument of Appointment and Authorisation under the *Environment Protection Act 2017* (**Attachment 1**), and the Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* (**Attachment 2**).

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

Instrument 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 is based on advice from the Maddocks Authorisations and Delegations Service.

Maddocks recommend that officers authorised under the *Planning and Environment Act 1987* and *Environment Protection Act 2017* be authorised by Council resolution and that the 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 reviews occurred in September and October of 2023.

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

Council received formal notifications 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.

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.

Where Council has sub-delegated EPA powers and functions under s 437(2) of the Act, the members of Council staff must be authorised officers under s 242(2) of the Act. As such, an Instrument of Appointment and Authorisation authorising officers from the Civic Services Department has been prepared at **Attachment 1** 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 Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* authorises officers from the Planning and Placemaking Department. A copy of the Instrument is at **Attachment 2**.

The attached Instrument of Appointment and Authorisation under the *Environment Protection Act 2017* (**Attachment 1**) and Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* (**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.

To ensure that the Instruments are up to date and account for staffing changes in the organisation, officers undertake a review of the Instruments bi-annually. There were no legislative changes relevant to the current review, as such the changes merely capture changes in staffing arrangements in the Urban Living Directorate.

5. Consultation/communication

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

Consultation with the Urban Living Directorate has taken place in 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 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

Effective and efficient delegations and authorisations 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 officer: Liam Merrifield, Senior Governance Officer

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	Parking and Traffic Team Leader
Alex Ilievski	Parking Officer
Alice Haskett	Prosecutions Officer
Anastasia Matete	Parking Officer
Andrew Salisbury	Senior Parking Officer
Brad McMahon	Supervisor Asset Protection Enforcement
Cailin Johnston	Senior Permits and Appeals Officer
Can Doruk	Parking Officer
Chris McKee	Parking Officer Casual
Ciaran Hartnett	Permits Officer
Danielle Facey	Permits Officer
Eileen Clinch	Animal Management Officer
Ellen Hill	Environmental Health Officer
Elita Schwab	Environmental Health Officer
Florin Boiciuc	Parking Officer
Gabriel Dorning	Animal Management Officer
Heidi Beecher	Asset Protection Enforcement Team Leader
Iona Mitchell	Permits Officer
Jai Ghotra	Permits Officer
James Sidonie	Animal Management Officer
Jamie Chinga	Parking Officer
Giuseppe (Joe) Luppino	Parking Officer
Joe Peluso	Parking Officer
John Privitelli	Local Laws Officer
Jorge Contreras	Parking Officer
Joseph Climacus	Parking Officer
Joseph Elbaum	Asset Protection Enforcement Officer
Junne Matondo	Technical Officer - Asset Protection
Karanvir Singh	Parking Officer
Katerina Sioulas	Environmental Health Officer
Leanne Roberts	Asset Protection Enforcement Officer
Leonardo (Leo) Manca	Coordinator Health, Projects and Prosecutions
Lorenzo Gullone	Environmental Health Officer
Matthew (Matt) Aitken	Prosecutions Lead
Matthew Juers	Environmental Health Officer
Michael Fraser	Permits Officer
Michael O'Connor	Senior Asset Protection Enforcement Officer
Michelle Cant	Parking Officer (Night)
Mirella Manfre	Coordinator Permits Appeals and Protection of Assets
Narmada Sarvajananarajan	Environmental Health Officer

Nigel Wright	Parking Officer
Nileshkumar Jani	Parking Officer
Noppawoot Suravilas	Parking Officer
Paul Bryan Mitchelmore	Manager Civic Services
Paul Teiwes	Parking Officer
Penelope Anastasiadis	Environmental Health Officer
Rachael Oats	Parking Officer
Philippa Lee Treloar	Asset Protection Enforcement Officer
Philip Montalto	Environmental Health Officer
Robert Marshall	Parking Officer
Robert Weis	Team Leader Health Services
Roslyn Lawton	Animal Management Officer
Rosetta (Rose) Locke	Local Laws Officer
Rohit Markan	Parking Officer
Sam Joseph	Technical Officer - Asset Protection
Scott Walker	Director Urban Living
Sean Bell	Local Laws Officer
Shariq Ali	Parking Officer
Sharon Raju	Permits Officer
Shaun Whittle	Local Laws Officer
Stacey Sorrell	Local Laws Officer
Stephen Martonyi	Local Laws officer
Susie Bozinovska	Permits Officer
Tim O'Reilly	Parking Officer
Toolefua Samuelu	Technical Officer - Asset Protection
Tom Vandenbroek	Parking Officer
Virginie Geoffroy	Parking Officer (Night)
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 25 March 2024.

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

..... Chief Executive Officer

..... Mayor

..... Date

Boroondara City Council

Instrument of Appointment and Authorisation

(Planning and Environment Act 1987)

Aileen Chin	Principal Urban Planner
Alice Haskett	Prosecutions Officer
Andrew McIlveen	Planning Investigations Officer
Amaya De Silva	Senior Urban Planner
Brendan Rea	Planning Investigations Officer
Calum Schwindt	Urban Planner
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 City Futures
Edward Howe	Urban Planner
Elizabeth Spanjer	Senior Urban Planner
Erin McCarthy	Coordinator Urban Planning
Gregory (Greg) Pocock	Para Planning Officer
Ida LaRocca	Para Planning Officer
Jack Richardson	Senior Urban Planner
Jessica Nedelkos	Para Planning Officer
Jennifer Estrada	Para Planning Officer
Joel Torresi	Urban Planner
Joel Elbourne	Manager Urban Planning

Jock Farrow	Principal Urban Planner
Jon Harper	Coordinator Urban Planning
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 Lead
Michael Burton	Public Notice Officer
Mridula Krishna	Urban Planner
Nikhil Shah	Urban Planner
Scott Lipscombe	Senior Development Transport Engineer
Scott Walker	Director Urban Living
Shane Browne	Senior Urban planning Forester
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
Finbar Harrison	Urban Planner

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

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

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

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 25 March 2024.

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

..... Chief Executive Officer

..... Councillor

..... Date