

DELEGATION FROM COUNCIL TO THE CHIEF EXECUTIVE OFFICER

Report Author: Governance Coordinator
Responsible Officer: Director Corporate Services
Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

Section 11(1)(b) of the *Local Government Act 2020* (the Act) provides the ability for Council to delegate powers, duties and functions to the Chief Executive Officer. This enables the business of Council to be carried out efficiently and in line with approved policies.

The Act requires all delegations made to be recorded in an instrument of delegation.

It is recommended that Council approve the updated Instrument of Delegation to the Chief Executive Officer included at Attachment 1 to the report.

RECOMMENDATION

In the exercise of the power conferred by s. 11(1)(b) of the Local Government Act 2020 (the Act), Council resolves that

- 1. There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument.***
- 2. The instrument comes into force immediately the common seal of Council is affixed to the instrument.***
- 3. On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.***
- 4. The duties and functions set out in the instrument must be performed, and the powers set out in the instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.***

RELATED COUNCIL DECISIONS

At its meeting held on 21 August 2021 Council approved the current Instrument.

DISCUSSION

Background

Section 11(1)(b) of the Act provides for a Council to delegate powers, duties and functions to:

- (a) the members of a delegated committee; or
- (b) the Chief Executive Officer.

Council subscribes to the Maddocks Authorisations and Delegations Service. This service provides advice to Council officers regarding changes to legislation, together with template instruments of delegation, which are then tailored to Council's specific requirements.

The Instrument of Delegation from Council to the Chief Executive Officer, included at Attachment 1, has been updated in line with advice provided by Maddocks.

Changes to this instrument are shown by way of track changes, encourage transparency and formally acknowledge that there are some examples when statutory payments or contracts over \$1.0 million are legitimate and relevant. Although not an exhaustive list, this addition will help provide clarity and probity regarding the Chief Executive Officer delegation.

If approved by Council, a "clean" version without tracked changes will be sealed and published to Council's website, in accordance with Council's obligations under the Act and the Public Transparency Policy.

Recommended option and justification

It is important to ensure that Council's Instruments of Delegation are kept up to date. This means that Council can continue to comply with its obligations and that the business of Council can be carried out efficiently and in line with both legislation and approved policies.

Council must update its Instrument of Delegation to the Chief Executive Officer to enable compliance with the requirements of the Act.

Council is therefore requested to approve the updated Instrument of Delegation to the Chief Executive Officer included at Attachment 1 to this report.

FINANCIAL ANALYSIS

The cost to prepare and adopt the Instrument of Delegation is budgeted for within current operational departmental budgets.

APPLICABLE PLANS AND POLICIES

No regional, state or national plans and policies are applicable to the recommendation in this report.

This report contributes to the following strategic objective(s) in the Council Plan:

High Performing Organisation: By Council approving the Delegations made to the Chief Executive Officer (and subsequently to Council staff via a separate delegation instrument) the organisation can operate effectively. It is unreasonable for elected Council members to perform all functions and powers required to meet its legislative obligations. Therefore, Council must delegate powers and duties to ensure services are delivered in a timely and coordinated fashion. This instrument enables the organisation to perform its role, serving the community, in a compliant manner.

RELEVANT LAW

The delegation of Council powers, duties and functions is an administrative exercise and is provided for by section 11(1)(b) of the Act.

SUSTAINABILITY IMPLICATIONS

There are no economic, social or environmental impacts associated with the delegation of powers by Council.

COMMUNITY ENGAGEMENT

Not applicable.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

No collaboration with other Councils, Governments or statutory bodies was sought.

RISK ASSESSMENT

The Instrument of Delegation to the Chief Executive Officer has been prepared in accordance with section 11 of the Act and is based on the most recent advice provided by Maddocks. As such, there are no material risks to Council in adopting this Instrument.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. S5 - Delegation from Council to Chief Executive Officer (September 2023)
[track-changed]