



14.6 DELEGATION TO THE CEO UNDER THE LOCAL GOVERNMENT ACT 2020

EXECUTIVE MEMBER: KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND ORGANISATIONAL CAPABILITY

PREPARED BY: KIRSTY PEARCE, HEAD OF GOVERNANCE

1. PURPOSE

1.1 To recommend to Council that an updated Instrument of Delegation (delegation) be issued to the Chief Executive Officer (CEO).

2. EXECUTIVE SUMMARY

2.1 The current delegation to the CEO was approved by Council on 6 September 2017. More recently, some temporary delegations have been approved and subsequently revoked.

2.2 The delegation provisions of the Local Government Act 1989 lapse on 31 August 2020 and accordingly, new delegations pursuant to the *Local Government Act 2020* to staff are required.

2.3 This report presents the delegation to the CEO. A further report on delegations from Council to members of Council Staff under the *Local Government Act 2020* will be presented to the 2 September Council Meeting.

3. RECOMMENDATION

That Council:

- 3.1 Delegates to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the Instrument of Delegation to the Chief Executive Officer (Attachment 1), subject to the conditions and limitations specified in that Instrument.
- 3.2 Affixes the common seal of Council to the Instrument of Delegation to the Chief Executive Officer.
- 3.3 Notes that this Instrument of Delegation to the Chief Executive Officer comes into force immediately when the common seal of Council is affixed to the Instrument.
- 3.4 Revokes the current Instrument of Delegation to the Chief Executive Officer dated 6 September 2017 upon the coming into force of the Instrument.
- 3.5 Notes that 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 policies of Council that it may from time to time adopt.

4. KEY POINTS/ISSUES

4.1 The Act expressly provides for a Council to delegate a power duty or function to a member of Council staff, to act on behalf of Council. The Council is a legal entity composed of Councillors and is not a "natural person", so Council can only act in one of two ways: either by resolution of Council in a Council meeting, or through others acting on its behalf as delegates. It is impractical for Council to deal with all day to day



issues, therefore many operational actions are performed by staff under delegation from Council.

4.2 Council currently has in place two separate types of delegations from Council to Council staff, being delegations to:

- The Chief Executive Officer (CEO), which also includes the power for the CEO to sub-delegate to Council staff; and
- Members of Council staff.

4.3 This report presents the delegation to the CEO. A further report on delegations from Council to members of Council Staff under the *Local Government Act 2020* will be presented to the 2 September Council Meeting.

4.4 The Instrument of Delegation is based on model templates provided and regularly updated by Council's lawyers. This format of delegations is used extensively by Councils across the local government sector.

4.5 No changes are recommended to the delegation to the Chief Executive Officer except for the administrative changes required to bring the document into line with the requirements of the Act.

5. CONSULTATION AND STAKEHOLDERS

5.1 The instrument of delegation is a statutory document under the *Local Government Act 2020* and is based on information supplied by Council's solicitors.

6. LEGAL AND RISK IMPLICATIONS

6.1 Delegations reflect the powers, duties and functions that can be delegated under a wide range of Acts and Regulations and are essential to enable the day to day operations of the Council to be performed.

7. FINANCIAL IMPACT

7.1 The Instrument of Delegation is consistent with Council's *Procurement Policy*.

8. ENVIRONMENTAL IMPACT

8.1 There are no environmental impacts arising from this report.

9. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

9.1 The delegation reflects the legislative and policy influence provisions of the Council Plan 2017-2027.

10. IMPLEMENTATION STRATEGY

10.1 TIMELINE

10.1.1 If approved by Council, the delegation will apply with immediate effect. All delegations must, pursuant to section 11(7) of the *Local Government Act 2020*, be reviewed within 12 months of each general election.

10.2 COMMUNICATION

10.2.1 Under the *Local Government Act 2020*, and according with Council's Public Transparency Policy, a Register of Delegations must be maintained and made publicly available on Council's website.

ORDINARY MEETING OF COUNCIL
19 AUGUST 2020



11. OFFICER DIRECT OR INDIRECT INTEREST

11.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

TRIM FILE NO: F20/1

ATTACHMENTS 1. Proposed delegation to CEO from Council