



14.8 ESTABLISH THE IMAP JOINT DELEGATED COMMITTEE
UNDER THE LOCAL GOVERNMENT ACT 2020

EXECUTIVE MEMBER: KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND
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1. PURPOSE

- 1.1 To re-establish the Inner Melbourne Action Plan (IMAP) Implementation Committee (the Committee) as a Joint Delegated Committee from 1 September 2020, to bring its governance structure in line with the requirements of section 64 of the *Local Government Act 2020* (LGA 2020); and to update the membership of the Committee, with immediate effect.

2. EXECUTIVE SUMMARY

- 2.1 On 1 May 2020, section 86 of the *Local Government Act 1989* (LGA 1989) was repealed removing the provision for Special Committees of the Council and section 64 of the *Local Government Act 2020* (LGA 2020) came into effect allowing two or more councils to resolve to establish a Joint Delegated Committee. IMAP Member Councils are now considering the re-establishment of the Inner Melbourne Action Plan Implementation Committee as a Joint Delegated Committee under section 64 of the LGA 2020.
- 2.2 This report has been prepared for consideration (and resolution) by each of the five IMAP Member Councils; being the Cities of Melbourne, Stonnington, Yarra, Port Phillip and the Maribyrnong City Council.
- 2.3 This report updates the existing IMAP Instrument of Delegation, Schedule and terms of reference to reflect the new legislation and allows for expected changes to IMAP as an outcome of the recent Governance Review.

3. RECOMMENDATION

That Council:

- 3.1 Approves the establishment of a Joint Delegated Committee called the Inner Melbourne Action Plan Implementation Committee (the Committee) pursuant to section 64 of the *Local Government Act 2020* (LGA 2020) jointly with the City of Port Phillip, and the City of Melbourne, the City of Yarra, the City of Stonnington and the Maribyrnong City Council.
- 3.2 By Instrument of Delegation pursuant to section 11(1) of the LGA 2020, delegates to the members of the Joint Delegated Committee the powers, duties and functions relevant to the Committee's governance arrangements in accordance with the Instrument of Delegation, Schedule and Terms of Reference in Attachment 1.
- 3.3 Affixes the Common Seal of the Port Phillip City Council to the Instrument of Delegation, and notes that the Delegation:
- 3.3.1 comes into force on 1 September 2020; and
- 3.3.2 remains in force until Council determines to vary or revoke it.



- 3.4 Appoints as voting members of the Committee, effective immediately, the persons from time to time holding the positions of:

Chair, City of Melbourne Future Melbourne (Planning) Committee
Mayor, City of Port Phillip
Mayor, City of Stonnington
Mayor, City of Yarra
Mayor, Maribyrnong City Council
Chief Executive Officer, City of Melbourne
Chief Executive Officer, City of Port Phillip
Chief Executive Officer, City of Stonnington
Chief Executive Officer, City of Yarra
Chief Executive Officer, Maribyrnong City Council

4. KEY POINTS/ISSUES

Background

- 4.1 Established in 2006, the Committee is a unique partnership between the Cities of Melbourne, Stonnington, Yarra, Port Phillip and the Maribyrnong City Council with five Special Committees meeting as one; bound by identical Council Delegations and Terms of Reference; and with a formal Operational Protocol, joint website and Memorandums of Understanding in place for procurement protocols and joint Intellectual Property matters.
- 4.2 Its primary function is to oversee the implementation of regional strategies, advocacy and projects through cross council collaboration based on the five broad Goals of the *Inner Melbourne Action Plan 2016-2026* (IMAP 2016-26):

Inner Melbourne will continue to improve its internationally renowned liveability whilst responding to the challenges of rapid growth.

This will be achieved by promoting the following goals:

- A globally significant, strong and diverse economy;*
- A connected transport network that provides real travel choices;*
- Diverse, vibrant, healthy and inclusive communities;*
- Distinctive, high quality neighbourhoods and places;*
- Leadership in achieving environmental sustainability and climate change adaptation*

The IMAP Implementation Committee ... will pursue the following mission to achieve IMAP's vision and goals:

- We will have one voice in respect to our shared priorities and projects.*
- We will pursue projects of regional scale and significance.*
- We will undertake research and development on issues facing our region.*
- We will share resources.*



- 4.3 On 1 May 2020, section 86 of the LGA 1989 was repealed removing the provision for Special Committees of the Council; and section 64 of the LGA 2020 came into effect allowing two or more Councils to resolve to establish a Joint Delegated Committee. Current delegations remain in place until 1 September 2020.
- 4.4 During 2019-20, the Member Councils have been undertaking a review of the governance, purpose, membership and name of the Committee. The consultant report and a program for reviewing and updating the Committee's current structure and purpose was confirmed at the last Committee meeting on 12 June 2020. While that process is being worked through with partner Councils, the Committee resolved:
- "To recommend to the five IMAP Councils that they consider re-approving delegations to the IMAP Implementation Committee under the new Joint Delegations Committee provisions of the Local Government Act 2020 as an interim measure until a new partnership approach can be confirmed and established after the Council election period."*
- 4.5 The proposed Instrument of Delegation, Schedule and Terms of Reference (**Refer Attachment 1**) is based on the document originally prepared by Council solicitors, updated to reflect the adoption of the new plan in 2016, and now updated to reflect the new legislation. Minor updates also reflect current discussions on the Committee's greater advocacy role, to enable the work of the Committee to continue as new governance approaches are worked through.
- 4.6 As for Special Committees, all five Councils collaborating as a Joint Delegated Committee are encouraged to adopt identical documentation as set out in this report.
- 4.7 In addition, because of staff changes at City of Melbourne, current delegations to the five Special Committees are currently inconsistent. It is recommended that, in reconfirming the Committee membership, member delegations become effective immediately to ensure consistency in governance arrangements at the next Committee meeting on 28 August 2020.

KEY ISSUES AND DISCUSSION

A summary of minor amendments and key aspects of the new legislation as they relate to the Joint Delegated Committees are noted below for information.

4.8 Legislative requirements

- 4.8.1 A delegated committee is formed by a Council to which the Council delegates "any power, duty or function of a council under this Act or any other Act..." A delegated committee may exercise a power to undertake a duty or function as if it is the Council.
- 4.8.2 Delegated committees have specific roles and powers (delegations). Members of delegated committees are subject to many of the same requirements as Councillors, such as conflict of interest, personal interest returns and standards of conduct. Of note is the disclosure requirements for delegated committee members. Exemptions for non-council members were provided under the LGA 1989; however, the requirements are now the same for members of delegated committees as for Councillors.
- 4.8.3 The Act requires that Council must indemnify members of delegated committees, including in the conduct of the role as a member of a Joint Delegated Committee.



Members are to be indemnified against actions and claims arising in “respect of anything necessarily done or omitted to be done in the good faith” (s43) in the performance of their role.

4.8.4 Section 64 of the *Local Government Act 2020* regulates the establishment and operation of Joint Delegated Committees including:

- a) It provides for a Joint Delegated Committee to be established by two or more councils;
- b) It requires that a Joint Delegated Committee has as its membership at least one Councillor from each establishing council;
- c) It requires that a meeting of a Joint Delegated Committee is chaired by one of the Councillor members; and
- d) It provides that the procedures for meetings of a Joint Delegated Committee are to be:
 - in accordance with the Act (except Ss 61(3),1 (4)2 and (5)(d)3); and
 - otherwise determined by the establishing councils.

4.8.5 A member of a Joint Delegated Committee to whom a delegation is given can only exercise the delegation while acting as a member of the Joint Delegated Committee at a meeting of the Joint Delegated Committee

4.9 **Amendments updating the IMAP documentation**

The main changes made as part of this update include:

4.9.1 Schedule changes:

- Changed the ‘three year Rolling Implementation Program’ to an annual Implementation program
- Amended the Committee’s role to include reviewing and recommending to Councils on the Committee’s governance and membership requirements
- Updated those powers that cannot be delegated to reflect relevant parts of section 11(2) of the LGA 2020.

4.9.2 Terms of Reference Changes

- Updated all references to the LGA 2020.
- Noted further reviews to the *Inner Melbourne Action Plan 2016-2026* plan can be undertaken to accommodate expected changes in emphasis and priority
- Included IMAP’s advocacy role
- Added the section on Context
- Clarified that the reviews and updates will coincide with the 4-year council term.



4.9.3 A copy of the Instrument of Delegation, Schedule and Terms of Reference of the Committee is appended (**refer Attachment 1**).

5. CONSULTATION AND STAKEHOLDERS

5.1 There was no requirement for external stakeholder consultation in this proposal.

6. LEGAL AND RISK IMPLICATIONS

6.1 The Instrument of Delegation is structured in accordance with the requirements of the LGA 2020.

7. FINANCIAL IMPACT

7.1 The funding for operation of the Committee is currently suspended while the IMAP Reserve Fund is fully utilised in 2020-21. Future funding will be determined in conjunction with decisions on the new structure.

8. ENVIRONMENTAL IMPACT

8.1 There are no environmental implications arising from this report.

9. PLAN AND COUNCIL POLICY

9.1 The *Inner Melbourne Action Plan 2016-2020* includes a number of projects that directly address issues incorporated in the Council Plan.

10. IMPLEMENTATION STRATEGY

10.1 TIMELINE

10.1.1 The Instrument of Delegation takes effect upon being signed and sealed.

10.1.2 All member Councils are required to approve the establishment of IMAP as a Joint Delegated Committee pursuant to section 64 of the LGA 2020 by 1 September 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.

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ATTACHMENTS 1. Proposed Delegation to IMAP Committee