

**ORDINARY MEETING OF COUNCIL
23 NOVEMBER 2009**

8	COUNCIL DELEGATIONS TO MEMBERS OF COUNCIL STAFF
LOCATION/ADDRESS:	N/A
GENERAL MANAGER:	MARK BRADY, GENERAL MANAGER CORPORATE SERVICES
PREPARED BY:	MURRAY CHICK, COORDINATOR GOVERNANCE
FILE NO.:	18/02/14
ATTACHMENTS:	ATTACHMENT 1 - INSTRUMENT OF DELEGATION TO MEMBERS OF COUNCIL STAFF
	ATTACHMENT 2 – SCHEDULE OF FEES UNDER THE PUBLIC HEALTH AND WELLBEING ACT 2008

1. EXECUTIVE SUMMARY

- 1.1. This report proposes to update Council delegations to members of Council staff to take into account recent changes to legislation including planning for the commencement of the Public Health and Wellbeing Act 2008 as at 1 January 2010 and for changes to officer titles as a result of the recent organisational structure review.
- 1.2. The State Government has reviewed the current Health Act 1958. This Act will be repealed and replaced by the Public Health and Wellbeing Act 2008 with effect from 1 January 2010.
- 1.3. The role of Councils remain largely unchanged under the new legislation, however, there are some changes to policy and administrative processes.
- 1.4. The Public Health and Wellbeing Act 2008 gives local government powers to act to protect public health. It also requires councils to undertake particular activities, such as preparing Municipal Public Health Plans, immunising children in their municipalities, investigating nuisances and registering businesses prescribed in the regulations.
- 1.5. The powers, duties and functions bestowed upon councils by the Public Health and Wellbeing Act 2008 are able to be delegated by the CEO to members of Council staff. An Instrument of Delegation from the CEO to members of council staff will be done prior to 1 January 2010.
- 1.6. In summary, this report proposes to amend Council's delegations to members of council staff as granted by Council most recently on 29 September 2009, in the following manner:

- Deletion of the Health Act 1958 effective from 1 January 2010 noting that powers under the new Public Health and Wellbeing Act 2008 will be delegated to members of Council staff by the CEO
 - Renaming of the Domestic (Feral and Nuisance) Animals Act 1994 to the Domestic Animals Act 1994 effective from 1 December 2009
 - Transfer of certain powers, duties and functions under the Domestic (Feral and Nuisance) Animals Act 1994 and the Food Act 1984 from Council's delegations to staff to the CEO delegations to staff
 - Insertion of new and or amended delegations under the Heritage Act 1995, the Rail Safety Act 2006 and the Road Management Act 2004
 - Update of the delegations schedule to reflect recent organisational structure changes
- 1.7. In addition this report recommends the setting of fees for the registration / renewal of prescribed accommodation and business registrations and sets twelve months as the registration period for registrable premises.

2. RECOMMENDATION

That Council:

- 2.1 Notes the forthcoming introduction of the Public Health and Wellbeing Act 2008.
- 2.2 Adopts:
- 2.1.1 Attachment 1, the Instrument of Delegation from Council to Members of Council Staff, and authorises the signing of the Instrument of Delegation under Council seal.
 - 2.1.2 Attachment 2, the schedule of fees for Council Services provided under the Public Health and Wellbeing Act 2008 which are effective from 1 January 2010.
 - 2.1.3 A twelve month registration period commencing on 1 January each calendar year for registrable premises under the Public Health and Wellbeing Act 2008.

3. BACKGROUND AND CONTEXT

- 3.1 The Health Act 1958 and regulations made under that Act will be repealed on 1 January 2010 and the Public Health and Wellbeing Act 2008 will come into effect.

- 3.2 The organisation is required to undertake a range of activities to prepare for the introduction of the new legislation, including:
- 3.1.1 updating existing delegations and preparing new delegations in accordance with the new legislation;
 - 3.1.2 reappointing environmental health officers for the purposes of the new legislation;
 - 3.1.3 reappointing authorised officers for the purposes of the new legislation;
 - 3.1.4 reissuing identity cards to authorised officers;
 - 3.1.5 preparing revised templates for improvement and prohibition notices;
 - 3.1.6 training of officers in the new enforcement options;
 - 3.1.7 setting fees for registration/renewal/transfer of prescribed accommodation and registered premises (the fees have not changed, but must be struck under the new legislation);
 - 3.1.8 determining the registration period for prescribed accommodation and registered premises; (12 months commencing on 01 January each year); and
 - 3.1.9 preparing new certificates of registration.

4 CONSULTATION AND STAKEHOLDERS

- 4.1 To assist in the transition from the Health Act 1958 to the Public Health and Wellbeing Act 2008, Council has made use of a toolkit developed by the Municipal Association of Victoria and the delegation schedule has been amended in accordance with Council's regular legislation update service provided by Maddocks Lawyers.
- 4.2 Discussions have been conducted with senior members of Council staff including the Manager of Health, Parking & Enforcement.

5. DISCUSSION

5.1 OPTIONS

- 5.1.1 As Councils are responsible for enforcement of specific clauses of the Public Health and Wellbeing Act 2008, Council is required to prepare for the introduction of the new legislation to enable it to act within the requirements of the legislation from 1 January 2010.

- 5.1.2 Given the impending repeal of the Health Act 1958, Council must set fees under the Public Health and Wellbeing Act 2008. This power to set fees cannot be delegated to staff by Council.

5.2 ALIGNMENT TO COUNCIL PLAN

- 5.2.1 Council's responsibilities pursuant to the Public Health and Wellbeing Act 2008 are consistent with Council's key direction of "Engaging and governing the City" as contained in Council's 2009 – 2013 Council Plan.

5.3 POLICY IMPLICATIONS

- 5.3.1 The Public Health and Wellbeing Act 2008 is State Government legislation that Councils are required to enforce.

5.4 FINANCE / RESOURCE IMPLICATIONS

- 5.4.1 There are minimal financial costs associated with the in-house production of stationery to comply with the requirements of the new legislation.

5.5 LEGAL & RISK IMPLICATIONS

- 5.5.1 To ensure that Council's enforcement of the Public Health and Wellbeing Act 2008 is within the requirements of the new legislation, the organisation must address the issues of delegations, authorisations, fees, registrations and training prior to 1 January 2010.

6. IMPLEMENTATION STRATEGY

6.1 TIMELINE

- 6.1.1 The Public Health and Wellbeing Act 2008 is effective from 1 January 2010. At that time the Health Act 1958 will be repealed.
- 6.1.2 The name change relating to the Domestic Animals Act is effective from 1 December 2009.
- 6.1.3 Changes in relation to officer titles are effective from 7 December 2009.

6.2 COMMUNICATION

- 6.2.1 Relevant Council staff impacted by the new legislation are aware of the amended requirements.
- 6.2.2 For business premises the transition to the new legislation will be seamless as the fees will not alter and they will not be required to

lodge new registration applications. The annual renewal of registration process and the premises inspection procedures will also not alter.

7. OFFICER DIRECT OR INDIRECT INTEREST

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