



8.9

REVIEW OF COUNCIL DELEGATIONS TO SPECIAL COMMITTEES OF COUNCIL

WARD:

WHOLE OF MUNICIPALITY

GENERAL MANAGER:

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PREPARED BY:

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ATTACHMENTS:

- 1. Inner Melbourne Action Plan Implementation Committee Instrument of Delegation and Terms of Reference**
- 2. South Melbourne Market Committee Charter and Instrument of Delegation**
- 3. Statutory Planning Committee Instrument of Delegation**
- 4. Council Neighbourhood Programs Committee amended Terms of Reference and Instrument of Delegation**

PURPOSE

This report details the delegations from Council to Special Committees of Council which have been established by Council pursuant to section 86 of the Local Government Act 1989.

This report recommends that Council reviews its delegated powers, duties and functions to these Special Committees.

I. RECOMMENDATION

That Council:

- 1.1** Confirms the existing Inner Melbourne Action Plan Implementation Committee Instrument of Delegation and Terms of Reference dated 1 February 2017 (Attachment 1).
- 1.2** Confirms the existing South Melbourne Market Committee Charter and Instrument of Delegation dated 14 July 2015 (Attachment 2), noting that a further report on the delegations to this Committee will be presented to Council in the December meeting cycle.
- 1.3** Confirms the existing Statutory Planning Committee Instrument of Delegation dated 25 June 2013 (Attachment 3), noting that currently the Committee is not meeting and that a further report on the delegations to and operations of this Committee will be presented to Council in the near future.



- 1.4 Adopts and affixes the common seal to the amended Instrument of Delegation from Council to the Council Neighbourhood Programs Committee and approves the Terms of Reference (Attachment 4).
- 1.5 Revokes the previous Instrument of Delegation and Terms of Reference of the Council Neighbourhood Programs Committee dated 22 October 2013.

2. BACKGROUND

- 2.1 Council is required by the Local Government Act 1989 (the Act) under section 86(6) to conduct a review of any delegations that are in force to Special Committees of Council within 12 months of a general election - by 22 October 2017.
- 2.2 Section 86(1) of the Act expressly allows Council to establish Special Committees. Special Committees can comprise of Councillors; Council staff; other persons or any combination of these categories.
- 2.3 Council is allowed to appoint members to Special Committees and may at any time remove a member from a Special Committee. In addition Council may by Instrument of Delegation delegate functions, duties and powers to a Special Committee. In this case the Special Committee would replace Council as the decision maker. A Special Committee with delegated power from Council can only make decisions on matters that have been delegated to it by Council. Any action taken by a Special Committee outside of its delegation cannot be given effect to unless the decision has been approved by Council.
- 2.4 Whilst Council is required to conduct this review of its delegations to Special Committees within the specific timeframe of 12 months after an election, it is open to Council to amend and update these delegations from time to time when considered appropriate.
- 2.5 Council currently has established the following four Special Committees under section 86 of the Act:
 - 2.5.1 Inner Melbourne Action Plan Implementation Committee
 - 2.5.2 South Melbourne Market Committee
 - 2.5.3 Statutory Planning Committee
 - 2.5.4 Council Neighbourhood Programs Committee.

3. KEY INFORMATION

Inner Melbourne Action Plan Implementation Committee

- 3.1 Council at its Ordinary Meeting held on 27 February 2006 established the Inner Melbourne Action Plan Implementation (IMAP) Committee. IMAP is a unique partnership between the Cities of Melbourne, Stonnington, Yarra, Maribyrnong and Port Phillip with five Special Committees established under section 86 of the Act, meeting as



one, bound by identical Council Delegations and Terms of Reference. Its primary function is to oversee the implementation of regional strategies and actions through cross Council teams and associated partners.

- 3.2 **Attachment 1** is the current Instrument of Delegation and Terms of Reference for the IMAP committee. Council at its Ordinary Meeting held on 1 February 2017 reviewed the Instrument of Delegation and Terms of Reference to this Committee and made no changes.
- 3.3 As this Committee's delegations have previously been reviewed by Council in accordance with the requirements of the Act (within 12 months of a general election) no further action is required by Council at this time.
- 3.4 **South Melbourne Market Committee**
- 3.5 Council at its Ordinary meeting held on 26 February 2001 established the South Melbourne Market Committee. **Attachment 2** is a copy of the current South Melbourne Committee Charter and Instrument of Delegation. The purpose of the Committee is to oversee the Market's performance and direction, ensuring its financial viability, its pre-eminent position as a community resource and its position as a dynamic retail competitor.
- 3.6 This Charter and Instrument of Delegation was last reviewed by Council at its meeting held on 14 July 2015. The key changes made by Council to the Charter at that time were:
- 3.6.1 Delegation of full authority to the Committee to manage the South Melbourne Market in accordance with a Council approved Strategic Plan and annual business plan.
 - 3.6.2 Formal reporting back to Council twice per year.
 - 3.6.3 Council to approve the annual business plan.
 - 3.6.4 Introduction of an independent Chair.
 - 3.6.5 Introduction of a skills based board with the following skills:
 - 3.6.5.1 Extensive expertise in retail markets (one or two people).
 - 3.6.5.2 General high-level commercial expertise and acumen.
 - 3.6.5.3 Strategic marketing and communications.
 - 3.6.5.4 Strategic community engagement.
- 3.7 The future governance arrangements of the South Melbourne Market Committee is currently being reviewed separately. Councillors have recently received a briefing on this topic. Therefore this report recommends that Council confirms the existing Charter and Instrument of Delegation for the Committee with Council noting that a separate report reviewing the current Charter and Instrument of Delegation of the South Melbourne Market will be presented to Council in the December Council meeting cycle.
- Statutory Planning Committee**
- 3.8 Council at its Ordinary meeting held on 25 June 1997 established the Statutory Planning Committee. **Attachment 3** is a copy of the current Statutory Planning Committee



Instrument of Delegation. The purpose of the Committee is to exercise all Council's powers, duties and functions under the Planning and Environment Act 1987 in accordance with relevant policies and guidelines of the Council and to do all things necessary or convenient to be done or in connection with the performance of those powers, duties and functions. The Committee's is authorised to determine planning matters only.

- 3.9 The Committee's Instrument of Delegation was last reviewed by Council at its meeting held on 25 June 2013 where Council made no change to the existing delegation.
- 3.10 The Statutory Planning Committee last met on 6 December 2016. Since that time Council has been trialling the use of Planning Forums rather than the formal Statutory Planning Committee. Planning forums are held at 10.15am on the day of a Council meeting that has statutory planning items listed on the agenda. Members of the public are invited to attend the Planning Forums to speak to Councillors on items on the agenda that the community member has an interest in. The Mayor is the chair of the Planning Forum and all Councillors are invited to attend Forums.
- 3.11 The purpose of a Planning Forum is for Councillors to listen to the community and have the opportunity, in a more informal environment, of seeking further information and clarification from the community and Council staff as required. The Planning Forum does not have delegated power from Council to make a decision on a statutory planning matter (the Forum also considers strategic planning amendments but also has no power to make a final decision on a strategic planning matter). The statutory planning permit applications heard at the Planning Forum are then formally discussed by Council that night at the Ordinary Council meeting where Council further considers the matter and makes a determination. Members of the public who have spoken at the Planning Forum can only speak at the Council meeting on the same topic at the discretion of the Chairperson. The primary opportunity for community engagement is at the Planning Forum.
- 3.12 Currently management is undertaking a Governance Review. The purpose of the Governance Review is to review the efficacy of the current end to end process of Council briefing and decision making, with a view to implementing any improvements from the end of January 2018. This review amongst other things will look at options in relation to Council's Committee structures including the Statutory Planning Committee.
- 3.13 As a Governance Review is currently being undertaken separately, this report recommends that Council confirms the existing Statutory Planning Committee Instrument of Delegation with no changes, that Council notes that currently the Statutory Planning Committee is not meeting and further that Council notes that a separate Governance Review report will be presented to Council in the near future which will include a recommendation on the use of Council Committees including the Statutory Planning Committee.

Council Neighbourhood Programs Committee

- 3.14 Council at its meeting held on 25 August 2008 established the Council Neighbourhood Programs Committee. The purpose of this Committee is to make minor donations and grants to individuals, organisations or community groups to support community connectedness, community development and individual initiatives in each of Council's neighbourhoods.



- 3.15 The Committee's Terms of Reference and Instrument of Delegation was last reviewed by Council at its meeting held on 22 October 2013. At the Council Neighbourhood Programs Committee meeting held on 4 October 2017, the Committee reviewed its Terms of Reference and Instrument of Delegation. This report recommends that Council amends the Terms of Reference and Instrument of Delegation in line with the feedback from the Committee. **Attachment 4** is a copy of the recommended amended Terms of Reference and Instrument of Delegation.
- 3.16 In summary the changes recommended by the Committee relate to:
- 3.16.1 Amending the policy rationale to minor donations and grants to “individuals on behalf of community groups” and “not for profit” organisations.
 - 3.16.2 Guidelines - point 1 to be amended so that “in principle” the budget shall be equally divided between the “three wards”, however scope is given to modify this division if agreed to by the relevant ward Councillors.
 - 3.16.3 Guidelines – point 2 has been deleted as it is already adequately covered by point 7 (re-numbered now to point 6).
 - 3.16.4 Structure - third paragraph first sentence to read “The Committee shall consist of three voting members Mayor, another Councillor and the Chief Executive Officer **or delegate**”. This allows the CEO to be represented by another senior officer if the CEO is unavailable to attend a meeting of the Committee.
- 3.17 Currently management are also undertaking a Grant and Subsidy Program Review. Some of the outcomes of this review will be a revised Grants, Subsidies and Donations Policy and the development of Council Grants Management Framework. It will be important that the structure of the Council Neighbourhood Program minor donations and grants align with the revised policy and new framework. It is anticipated that this Review will come to Council for consideration in the first quarter of 2018.



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 The functions, duties and powers delegated to Special Committees aim to ensure the efficient and effective functioning of the organisation are consistent with Council's strategic direction and commitment to the community of a financially sustainable, high performing, well governed organisation that puts the community first.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 The review of delegations and has involved discussions with relevant senior members of Council staff and Councillors.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The Council as a legal entity can only act in the following ways: by Council resolution or through others acting on Council's behalf. Where Council acts through others, it is recommended that this be formalised through written instruments of delegation. The decision of a delegate with delegated power is legally binding on the Council as if the Council had made the decision itself. The instruments of delegation attached to this report have been prepared in accordance with recommendations received from Council's legal advisors.
- 6.2 The proposed delegations contain exceptions, conditions and limitations which must be adhered to by the delegate.
- 6.3 Council is required to conduct this review of these delegations within a specific timeframe required under the Act. However it is open to Council to amend and update its delegations at any other time when considered appropriate, or when necessary (for example, to reflect changes in legislation or to address risks that arise).

7. SUSTAINABILITY – Triple Bottom Line

- 7.1 ENVIRONMENTAL IMPLICATIONS
7.1.1 N/A
- 7.2 SOCIAL & CULTURAL IMPLICATIONS
7.2.1 N/A
- 7.3 ECONOMIC IMPLICATIONS
7.3.1 N/A
- 7.4 FINANCIAL IMPLICATIONS
7.4.1 N/A



8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

8.1.1 The proposed delegations in this report will come into force on the day Council confirms the existing delegations or if changes are made immediately after the common seal is affixed to each Instrument of Delegation.

8.2 COMMUNICATION

8.2.1 Council must keep a register of its delegations and this must be publicly available for inspection. The register will be updated according to the resolutions carried by Council and it and the instruments of delegation will be available for public inspection, and on Council's website.

9. OFFICER DIRECT OR INDIRECT INTEREST

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