



**14.6 REGISTER OF DECISIONS MADE BY CEO AND
REVOCATION OF COVID EMERGENCY DELEGATION**

EXECUTIVE MEMBER: KYLIE BENNETTS, DIRECTOR, OFFICE OF THE CEO

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1. PURPOSE

- 1.1 To present the final Register of Exercise of Delegation by the Chief Executive Officer during a declared State of Emergency – COVID-19, and to formally revoke the Instrument of Delegation adopted by Council on 25 March 2020 to manage the State Emergency as a result of COVID-19.

2. EXECUTIVE SUMMARY

- 2.1 On 16 March 2020, the Premier of Victoria declared a State of Emergency under the provisions of the Public Health and Wellbeing Act 2008 in response to the Coronavirus (COVID-19) pandemic.
- 2.2 At a Special Meeting of 19 March 2020 Council resolved to provide certain additional delegations to the CEO to enable quick decision making given the dynamic nature of the current situation and if Council was not able to meet due to an inability to maintain quorum.
- 2.3 At a Special Meeting on 25 March 2020, Council reconfirmed the provision of this additional delegation to the CEO and also resolved to issue an Instrument of Delegation. A copy of the executed Instrument is attached to this report.
- 2.4 The COVID-19 Omnibus (Emergency Measures) Act 2020 was enacted on 24 April 2020. Amongst other provisions, this Act amends the Local Government Act 2020 to enable Council meetings to be conducted by electronic means.
- 2.5 At the time of granting additional delegations to the CEO to manage the State of Emergency related to COVID-19, Council were advised that this arrangement would be reviewed around 15 April 2020 to determine if it was still required. Given the ambiguity at the time, Council were advised that the timing would be dependent upon circumstances at the time, including whether the State of Emergency would be extended or a State of Disaster would be enacted.
- 2.6 With the enactment of the COVID-19 Omnibus (Emergency Measures) Act 2020 there is an opportunity for Council to satisfy occupational health and safety requirements and have a greater ability for Council to meet and maintain a quorum. As a result, the Instrument of Delegation of 25 March 2020 to manage the current State Emergency as a result of COVID-19 is not required and should be revoked



3. RECOMMENDATION

That Council:

- 3.1 Receives and notes the Register of Exercise of Delegation by the Chief Executive Officer during a declared State of Emergency – COVID-19, 2020 report (Attachment 1).
- 3.2 Revokes the Instrument of Delegation adopted by Council on 25 March 2020 to manage the current State Emergency as a result of COVID-19 (Attachment 2).

4. KEY POINTS/ISSUES

4.1 Use of Delegations

- 4.1.1 Since 19 March 2020, the CEO has utilised the additional delegations to alter the service levels of a range of Council services in direct response to the State Emergency declared by the Victorian Government in response to COVID-19. These are outlined in the delegations register on Attachment 1.
- 4.1.2 Wherever possible, the CEO has briefed the Councillors virtually or through email of the intent to exercise these delegations prior to these being enacted.
- 4.1.3 Whilst the COVID-19 situation is unique and constantly changing, the criteria generally used for decision making during this time was:
 - Does the CEO need to act to meet an OHS obligation - if yes, the CEO would make this decision but given the impact to the community would advise Councillors and the community accordingly;
 - Does the CEO need to act to ensure the Council is compliant with a legal directive from the Australian or State Government - if yes, the CEO would make this decision and advise Councillors so that they were aware of the requirement and Council's compliance and communicate this to the community accordingly;
 - Is there a request from Councillors for the CEO to use the delegation or a request from other external bodies to act and / or is there significant ambiguity or contention to the issue - if yes, this would normally be a decision for Council. In these circumstances the CEO used the delegations provided by Council, in consultation with the Mayor and / or Councillors more broadly and then communicated this to the community.
- 4.1.4 In considering the ambiguity of the situation, the best assessment of the decisions from the attached Register that required the delegation from Council to the CEO included:
 - Closure of Assist Counters;
 - Divercity Magazine;
 - Planning Matter - Montague Commercial Precinct Heritage;
 - Closure of Beaches & Botanical Gardens;



- Closure of Skate Park & Exercise Stations (due to timing when decision was made);
- Access to Showers in the Peanut Farm Reserve Pavilion;
- Re-opening of St Kilda Botanical Gardens; and
- Increased service level provision for meal delivery.

4.2 COVID-19 Omnibus (Emergency Measures) Act 2020

4.2.1 The Victorian Parliament considered and passed the COVID-19 Omnibus Act on Thursday 23 April 2020 which amongst other things inserts a new Part 12 into the Local Government Act 2020. As of 1 May 2020, until 1 November 2020 this provision enables Council and its Special Committees to hold meetings electronically if required. It also enables Councils to satisfy requirements around a meeting being open to the public if that meeting is held electronically and then live streamed on the Council's website.

4.2.2 In line with many other Victorian Councils, Council provided additional delegations to the CEO in March 2020 to manage the State of Emergency (or State of Disaster if activated) in relation to COVID-19. This additional delegation was temporary in nature and established to manage:

- Public health and safety of the community, Councillors and staff attending Council meetings;
- The need for decisions to be made quickly in some circumstances; and
- Concerns about the ability to achieve quorum due to times of potential self-isolation by Councillors, Councillor illness and absences for other reasons.

4.2.3 As there is now provision for Council to meet electronically the additional delegations to the CEO provided in March 2020 to manage the State of Emergency related to COVID-19 are no longer required and through this report it is recommended that Council revokes these delegations.

5. OFFICER DIRECT OR INDIRECT INTEREST

5.1 An officer involved in the preparation of this report has an indirect interest by close association. The close association is employed by the Australian Government who is a funder of Council's aged care services. The officer involved in the preparation of this report has no direct line management responsibility for aged care. The indirect association, while responsible for the Southern Metropolitan region, has had responsibility for matters associated with the City of Port Phillip assigned to another officer in the Australian Government.

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ATTACHMENTS

- 1. Decisions made by CEO during COVID emergency._ Final**
- 2. Instrument of Delegation by the Council - 25-03-2020**