

8.9 INSTRUMENT OF APPOINTMENT AND AUTHORISATION - PLANNING AND ENVIRONMENT ACT 1987

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Attachments: 1. *Planning Officers Authorisation*

SUMMARY

The *Local Government Act 1989* provides for the appointment of Authorised Officers for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.

The Chief Executive Officer, by authority conferred by instrument of delegation from Council dated 16 October 2017, makes these appointments.

Under the *Planning and Environment Act 1987*, however, Authorised Officers can only be appointed by Council resolution as the Act prohibits delegation of the power to appoint Authorised Officers under the Act.

RECOMMENDATION

THAT in the exercise of the powers conferred by Section 147(4) of the *Planning and Environment Act 1987* and Section 232 of the *Local Government Act 1989*, Mitchell Shire Council resolves that:

1. The members of Council staff referred to in the *Instrument of Appointment and Authorisation* at Attachment 1 be appointed and authorised as set out in the Instrument.
2. The *Instrument of Appointment and Authorisation* comes into force immediately after the common seal of Council is affixed to the Instrument and remains in force until Council determines to vary or revoke it, or until the Authorised Officer ceases to be a member of Council staff.
3. The *Instrument of Appointment and Authorisation* be signed and sealed.

BACKGROUND

The Chief Executive Officer, by authority conferred by Instrument of Delegation from Council dated 16 October 2017, makes these appointments. Maddocks Lawyers' model Instrument of Appointment and Authorisation developed for Victorian Councils is used for this purpose.

Under the *Planning and Environment Act 1987* Authorised Officers can only be appointed by Council resolution as the Act prohibits delegation of the power to appoint authorised officers under the Act.

ISSUES AND DISCUSSION

Section 188(2) of the *Planning and Environment Act 1987* provides that Councils cannot delegate the power to authorise Officers for the purposes of enforcing the *Planning and Environment Act 1987*.

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As the Authorised Officers involved enforce several other Acts and regulations other than the *Planning and Environment Act 1987*, Maddocks Lawyers' other general Instrument of Appointment and Authorisation covering these Acts and regulations will continue to operate in tandem with the separate Instrument of Appointment and Authorisation (*Planning and Environment Act 1987* only) where Authorised Officers are appointed by Council resolution.

CONSULTATION

The Manager Strategic Planning has been consulted in preparing this report.

FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

There are no significant financial or asset management implications arising from the appointment of Authorised Officers.

POLICY AND LEGISLATIVE IMPLICATIONS

Section 224 of the *Local Government Act 1989* provides for the appointment of Authorised Officers for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.

SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)

There are no significant environment and sustainability implications arising from the appointment of Authorised Officers.

CHARTER OF HUMAN RIGHTS IMPLICATIONS

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

OFFICER DECLARATION OF CONFLICT OF INTEREST

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

CONCLUSION

The *Instrument of Appointment and Authorisation* allows Officers to fulfil their duties and it is recommended that Council endorse appointments for Officers listed in Attachment 1. These Authorisations will be revoked should the Officer cease to be a member of Council staff.

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(CONT.)

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

GOVERNANCE AND CORPORATE PERFORMANCE

18 FEBRUARY 2019

8.9

INSTRUMENT OF APPOINTMENT AND AUTHORISATION - PLANNING AND ENVIRONMENT ACT 1987

Attachment No: 1

Planning Officers Authorisation

S11A. Instrument - Planning and Environment Act 1987

In this instrument "**officer**" means -

- Paul Bezemer
- Zoe Dillon

By this instrument of appointment and authorisation Mitchell Shire Council -

1. under section 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under section 232 of the *Local Government Act 1989* authorises the officer generally to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of **Mitchell Shire Council** on 18 February 2019.

The Common Seal of **MITCHELL SHIRE COUNCIL** was affixed this 18th day of February 2019 in the presence of:

.....Councillor

.....Councillor

.....Chief Executive Officer

Date: 18 February 2019