

Instrument of Delegation (Delegated Committee)

**Nillumbik Shire Council
Instrument of Delegation
Future Nillumbik Committee**

Nillumbik Shire Council (**Council**) delegates to each person who is from time to time appointed as a member of the Delegated Committee established by resolution of Council passed on 25 August 2020 and known as the "Future Nillumbik Committee" (**the Committee**), the powers and functions set out in the Schedule, and declares that:

1. this Instrument of Delegation is authorised by a resolution of Council passed on 25 August 2020;
2. a delegate can only exercise the delegations contained in this Instrument of Delegation while acting as a member of the Committee at a meeting of the Committee;
3. the delegation:
 - 3.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 3.2 remains in force until Council resolves to vary or revoke it; and
 - 3.3 is to be exercised in accordance with the guidelines or policies which Council from time to time adopts; and
4. all members of the Delegated Committee will have voting rights on the Delegated Committee.

THE COMMON SEAL OF NILLUMBIK SHIRE COUNCIL
WAS AFFIXED TO THIS INSTRUMENT ON

DATE 27 August 2020

COUNCILLOR.....



CHIEF EXECUTIVE OFFICER



SCHEDULE

Powers and functions

To exercise Council's functions and powers to perform Council's duties in relation to a Delegated Committee, the Future Nilumbik Committee, under section 11(1)(a) of the *Local Government Act 2020*, and for those purposes to do all things necessary or convenient to be done for or in connection with the performance those functions, duties and powers.

Exceptions, conditions and limitations

The members of the Delegated Committee are not authorised by this Instrument to exercise the powers which, by force of section 11(2) of the *Local Government Act 2020*, cannot be delegated.

Future Nillumbik Committee

Terms of Reference

Classification

The Future Nillumbik Committee is a Committee of Council established under section 63 of the *Local Government Act 2020*.

Delegation

Council delegates powers to the Future Nillumbik Committee to determine any issue, take any action or do any act or thing as set out in the Instrument of Delegation (effective from the date of that Instrument of Delegation).

Scope and Purpose

The scope of the Future Nillumbik Committee's responsibilities include all matters within the following portfolio areas (further detail in provided in the **Appendix 1**).

- Community Services
- Economic Development and Marketing
- Environment and Sustainability
- Finance and Governance
- Infrastructure
- Social infrastructure
- Planning

Membership and chairperson

- All Councillors are members of the Future Nillumbik Committee.
- A meeting of a delegated committee is to be chaired by the Councillor appointed by Council or appointed by the Mayor, or in their absence at a meeting, by a Councillor present appointed by the committee members present. That person is the Chair at the commencement of the meeting, when preliminary matters are considered, (such as apologies, confirmation of minutes, and declarations of interest).
- Council resolved to assign individual portfolio responsibilities to individual Councillors. The agenda of the Committee shall identify which items of business relates to the respective portfolios. The Chairperson for each particular item shall be the Councillor with the relevant portfolio responsibility.

Conduct of Committee meetings

- Committee meetings will be conducted in accordance with Governance Rule - Meeting Procedure.

- A quorum will comprise four of the seven councillors.
- All members of the Committee have voting rights. Decisions are to be made by a majority vote through a show of hands.
- Matters which are required by law to be determined by Council at a Council Meeting cannot be determined by the Committee.
- The Committee's powers are limited to those provided in the Instrument of Delegation from Council, and are subject to any further limitations prescribed in the Local Government Act 1989, the Local Government Act 2020, the Planning and Environment Act 1987, or any other legislation.
- The Committee may consider and determine all other matters. However the Committee may also, on occasions, consider such matters and resolve to refer them to Council for determination.
- In circumstances where an urgent matter requires consideration, and it is a matter that does not correspond to a particular portfolio, the matter will be included in the agenda and the Chair will chair the Committee meeting for that matter.

Planning Applications

Previous changes to the Planning Delegation protocol for Planning Applications under the *Planning and Environment Act 1987* are to remain. These identify the following circumstances under which an officer may not exercise delegated powers to decide an application:

- a) If the Ward Councillor in whose ward the application is located, advises in writing that the Councillor wishes to refer the matter to the Future Nillumbik Committee for a planning decision; or
- b) If any Councillor other than the Ward Councillor in whose ward the application is located, advises in writing that the Councillor wishes the matter to be referred to the Future Nillumbik Committee for decision, and that request is supported in writing by one other Councillor.

Public submissions and presentations

One of the major functions of this Committee is to provide an opportunity for members of the public to address the Committee in relation to matters. The opportunity to address the Committee will be provided on the following basis:

1) Statutory right to address Committee

This includes those matters which are required to be considered under Section 223 of the *Local Government Act 1989*, which provides a right for persons who have made a written submission to also appear in person to address a meeting of Council or a Committee on the submission. Such matters include:

- the preparation or adjustment of the Council Plan
- the preparation of the Annual Budget or a revised Budget
- the granting of certain rate rebates or concessions

- a change to the method of valuation
- the declaration or variation of Special Rates and Charges
- the determination of Mayoral and Councillor allowances
- the making of Local Laws
- the proposed sale of Council land, change of land use, and certain leases
- various roads, traffic and drainage matters
- regional library agreements

Where other legislation provides a right to address Council or a Committee of Council, then this right shall be provided in addition to the above-listed matters.

2) Other rights to address Committee

In addition to the above statutory rights, the Committee will also provide an opportunity for members of the public to address the Committee in respect of matters listed in the Committee agenda. This includes matters where Council has invited public submissions through a consultation process, as well as any other matter on the agenda. This means that a member of the public can attend and address the Committee on a matter, even if Council has not invited public submissions on the matter or if the person has not already lodged a written submission.

Presenters who wish to address the Committee must register in advance, in accordance with the Governance Rule - Meeting Procedure. Presentations are limited to three minutes.

For planning permit applications, this right extends to the applicant and those persons who have lodged written objections or submissions.

The Committee also retain the right to resolve in any particular instance to allow a person to address the Committee, even if that person did not satisfy the proposed automatic entitlement in these Terms of Reference.

Meeting frequency, time and venue

- Meetings will be open to the public (unless confidential business is being considered in accordance with section 66 of the Local Government Act 2020).
- Committee Meetings will be held according to the schedule determined by Council. Meetings will generally be held once per month on the second Tuesday (however this may vary due to public and school holiday dates or other factors).
- Any Delegated Committee Meetings may be called by Council resolution, by Committee resolution or by the Mayor.
- The venue for the meeting is the Council Chamber at the Civic Centre, Civic Drive in Greensborough (unless otherwise specified). Public notice of the Committee's meetings will be provided.
- Agendas and minutes will be coordinated by the Governance unit.

References

- *Local Government Act 1989*
- *Local Government Act 2020*
- Governance Rule - Meeting Procedure
- Instrument of Delegation

Council contact

Executive Manager, Governance, Communications and Engagement

Approval date

August 2020

APPENDIX 1 – Portfolio descriptions

Community Services

- Aged and Disability Services policy and programs
- Arts and Cultural Services policy and programs
- Children, Family and Youth Services policy and programs
- Community Development and Inclusion policy and programs
- Libraries and Community Education policy and programs
- Maternal and Child Health policy and programs

Economic Development and Marketing

- Tourism industry development and marketing
- Agriculture
- Retail centres marketing
- Economic development policy and programs

Environment and Sustainability

- Recycling and waste management
- Animal management
- Food safety, public health and immunisation
- Environmental policy, education and events
- Water quality and conservation
- Biodiversity protection and land management

Finance and Governance

- Financial planning and policy
- Financial and performance reporting
- Budget and Annual Report
(excluding declaration of rates and charges, and the power to borrow money, which must be determined by Council)
- Audit and risk management
- Local laws
- Corporate governance

Infrastructure

- Emergency management
- Transport infrastructure and transport advocacy
- Council property and infrastructure asset management
- Plant and fleet management
- Open space presentation and maintenance

Social infrastructure

- Leisure centres and facilities

- Sportsground facilities
- Recreational trails
- Open space planning
- Community centres
- Community services infrastructure

Planning

- Planning applications
- Land-use planning policy
- Planning scheme and amendments
(excluding adoption or abandonment of amendments, which must be determined by Council)