

## **6.4 Additional Instrument of Delegation - Council to Members of Council Staff - Planning and Environment Act 1987**

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**Report Presenter:** David Thompson, Director Governance and Legal

**Executive Leader:** Mans Bassi, Chief Operating Officer

### **Executive Summary**

1. The purpose of this report is to present to Council a new additional Instrument of Delegation to Members of Council Staff (Instrument) (**Attachment 1**) for adoption.
2. Council subscribes to the Maddocks Delegations and Authorisations Service, which provides template Instruments and advice. Since the last Instrument of Delegation - Members of Council Staff was adopted by Council on 30 September 2025, Maddocks have advised of recent changes to the *Planning and Environment Act 1987* as amended by the *Consumer and Planning Legislation Amendment (Housing Statement Reform) Act 2025*, which commenced on 25 November 2025.
3. The Instrument (**Attachment 1**) has been prepared for Council's consideration in accordance with the latest update from Maddocks and in consultation with the Planning and Building Branch and the City Strategy Branch.
4. Council is requested to adopt the Instrument of Delegation to Members of Council Staff (Instrument) (**Attachment 1**).

### **Recommendation from management**

5. In the exercise of the powers conferred by the legislation referred to in the attached Instrument of Delegation to Members of Council Staff (Attachment 1), Melbourne City Council (Council) resolves that:
  - 5.1. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation to Members of Council Staff (Instrument) (Attachment 1), the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.
    - 5.1.1. The Instrument:
    - 5.1.2. be sealed;
    - 5.1.3. comes into force immediately the common seal of Council is affixed to the Instrument; and
    - 5.1.4. remains in force until Council determines to vary or revoke it.
  - 5.2. The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
6. That Council note this delegation only affects the current S6 Instrument of Delegation to members of Council staff (authorised by resolution of Council passed on 30 September 2025) to the extent that the provisions in the Schedule of the Instrument are marked as 'amended' or 'repealed' as appropriate.

**Purpose**

6. The purpose of this report is to present to Council a new additional Instrument of Delegation to Members of Council Staff (Instrument) (**Attachment 1**) for adoption.

**Background**

7. Council is empowered by section 11 of the *Local Government Act 2020* to delegate its powers, duties or functions with some exemptions.
8. Delegations are necessary to facilitate the effective functioning of Council, as they enable day-to-day decisions to be made in relation to routine administrative and operational matters.
9. A delegate must comply with the conditions of delegation, as well as any policies of Council and any legislative framework.
10. Council can still exercise any delegated power, duty or function itself by resolution.

**Key considerations**

11. Council subscribes to the Maddocks Delegations and Authorisations Service, which provides template Instruments and advice.
12. Since the last Instrument of Delegation - Members of Council Staff was adopted by Council on 30 September 2025, Maddocks have advised of changes to the *Planning and Environment Act 1987* as amended by the *Consumer and Planning Legislation Amendment (Housing Statement Reform) Act 2025*, which commenced on 25 November 2025.
13. The Instrument (**Attachment 1**) has been prepared for Council's consideration in accordance with the latest update from Maddocks and in consultation with the Planning and Building Branch and City Strategy Branch.

**Legal**

14. The Instrument has been prepared based on advice from the Maddocks Delegations and Authorisations Service.

**Finance**

15. There are no financial implications as a result of the recommendation from management.

**Conflict of interest**

16. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

**Charter of Human Rights and Responsibilities**

17. The recommendation contained in this report is compatible with the *Charter of Human Rights and Responsibilities Act 2006* as it does not raise any human rights issues.

**Health and Safety**

18. In developing this proposal, no Occupational Health and Safety issues or opportunities have been identified

**Consultation**

19. Public consultation is not required prior to Council delegating its powers, duties and functions.

**Relevance to Council Plan and Council Policies**

20. Delegations Policy.

21. Delegation Policy for Planning Applications.

**Social and environmental impacts**

Social impacts

22. Delegations are considered essential to enable the day-to-day decisions of Council to be made.

Environmental impacts

23. Consideration of environmental sustainability issues or opportunities was considered not relevant to this report.

**Gender Impact Assessment**

24. A Gender Impact Assessment is not applicable.

**Attachment List**

1. February 2026 - S 6 A Instrument of Delegation under the PE Act 1987 [6.4.1 - 10 pages]

***S6A Instrument of Delegation  
under the Planning and Environment Act 1987***

**Melbourne City Council**

**Instrument of Delegation**

**to**

**Members of Council staff**

### Instrument of Delegation

In exercise of the powers conferred by the *Planning and Environment Act 1987 (Act)*, the legislation referred to in the attached Schedule, and in accordance with section 188 of the Act, the Council:

1. delegates each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column 3 of the Schedule;
2. records that references in the Schedule are as follows:

<b>CLC</b>	means	Chief Legal Counsel
<b>DCS</b>	means	Director City Strategy
<b>DPB</b>	means	Director Planning and Building
<b>GMSPCC</b>	means	General Manager Strategy, Planning and Climate Change
<b>EO</b>	means	Enforcement Officer
<b>FTP</b>	means	Fast Track Planner
<b>HSP</b>	means	Head of Statutory Planning
<b>MCP</b>	means	Manager City Planning
<b>MHS</b>	means	Manager Heritage Strategy
<b>MPA</b>	means	Manager Planning Appeals
<b>MPP</b>	means	Manager Planning Policy
<b>MSP</b>	means	Manager Statutory Planning
<b>PLS</b>	means	Principal Land Surveyor
<b>PSO</b>	means	Principal Subdivision Officer
<b>PUP</b>	means	Principal Urban Planner
<b>SSO</b>	means	Senior Subdivision Officer
<b>SSTP</b>	means	Senior Strategic Planner
<b>STOP</b>	means	Strategic Planning Officer
<b>STP</b>	means	Strategic Planner
<b>STPH</b>	means	Strategic Planner (Heritage)
<b>SUP</b>	means	Senior Urban Planner
<b>UP</b>	means	Urban Planner

- 2.1 this Instrument of Delegation is authorised by a resolution of Council passed on 24 February 2026; and
- 2.2 the delegation:
  - 2.2.1 comes into force immediately when the common seal of Council is affixed to this Instrument of Delegation;
  - 2.2.2 remains in force until varied or revoked;
  - 2.2.3 is subject to any conditions and limitations set out in sub-paragraph 2.3, and the Schedule; and
  - 2.2.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts;
- 2.3 the delegate must not determine the issue, take the action or do the act or thing:
  - 2.3.1 if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;

- 2.3.2 if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a
  - (a) policy; or
  - (b) strategy
 adopted by Council;
- 2.3.3 if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation; or
- 2.3.4 if the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff or delegated committee; and
- 2.4 acknowledges that this delegation only affects the current S6 Instrument of Delegation to members of Council staff (authorised by resolution of Council passed on 30 September 2025) to the extent that the provisions in the Schedule are marked as 'amended' or 'repealed' as appropriate.

**The COMMON SEAL of the  
MELBOURNE CITY COUNCIL  
was affixed hereto in accordance  
with the Governance Rules** )  
)  
)  
)

.....  
Lord Mayor

.....  
Chief Executive Officer

.....  
Date

## SCHEDULE

<b>PLANNING AND ENVIRONMENT ACT 1987</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>PROVISION</b>	<b>THING DELEGATED</b>	<b>DELEGATE</b>	<b>CONDITIONS &amp; LIMITATIONS</b>
s 8A(2) ( <i>repealed</i> )	Power to prepare amendment to the planning scheme where the Minister has given consent under s 8A	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PUP, SSTP, STOP, STP, STPH, SUP	This provision has been repealed, as of 25 November 2025, and should not be exercised.  Refer to section 231 for treatment of amendments on foot before the repeal of this section.
s 8A(3) ( <i>repealed</i> )	Power to apply to Minister to prepare an amendment to the planning scheme	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PUP, SSTP, STOP, STP, STPH, SUP	This provision has been repealed, as of 25 November 2025, and should not be exercised.  Refer to section 231 for treatment of amendments on foot before the repeal of this section.
s 8A(5) ( <i>repealed</i> )	Function of receiving notice of the Minister's decision	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PUP, SSTP, STOP, STP, STPH, SUP	This provision has been repealed, as of 25 November 2025, and should not be exercised.  Refer to section 231 for treatment of amendments on foot before the repeal of this section.

s 8A(7) ( <i>repealed</i> )	Power to prepare the amendment specified in the application without the Minister's authorisation if no response received after 10 business days	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PUP, SSTP, STOP, STP, STPH, SUP	This provision has been repealed, as of 25 November 2025, and should not be exercised.  Refer to section 231 for treatment of amendments on foot before the repeal of this section.
s 8B(2) ( <i>repealed</i> )	Power to apply to the Minister for authorisation to prepare an amendment to the planning scheme of an adjoining municipal district	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PUP, SSTP, STOP, STP, STPH, SUP	This provision has been repealed, as of 25 November 2025, and should not be exercised.  Refer to section 231 for treatment of amendments on foot before the repeal of this section.
s 16B	Duty (upon receiving a request to prepare an amendment to the planning scheme) to decide:  - to apply to the Minister for authorisation to prepare the amendment, with or without changes, under section 16F, or  - to refuse the request.  <b>Note:</b> see also sections 16A, 16D, 16E and 16K.	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP	
s 16C(1)	Duty to give written notice of its decision under section 16B to the person who made the request within 10 business days of making the decision.  <b>Note:</b> The notice must contain prescribed information, and reasons if it is a refusal.	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP	

s 16C(4)	Duty to give a copy of the request and the notice under subsection 16C(1) to the Minister.	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP	
s 16F	Power to apply to the Minister for authorisation to prepare an amendment to the State standard provisions or the local provisions of a planning scheme in force in the municipal district. <b>Note:</b> see also sections 16G and 16K.	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP	
s 16F	Power to prepare an amendment to the planning scheme where the Minister has authorised Council to do so under section 16F	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP	
s 16H	Power to prepare an amendment specified in an application without the Minister's authorisation if no response received after 10 business days <b>Note:</b> see also section 16K.	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP	Does not apply in relation to an application for the preparation of an amendment that will apply to land to which a Suburban Rail Loop planning area declaration applies.
s 16I	Power to apply to the Minister for authorisation to prepare an amendment to any part of the State standard provisions and local provisions of a planning scheme applying to an area adjoining its municipal district.	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP	

s 16I	<p>Power to prepare amendment to the planning scheme applying to an area adjoining Council's municipal district where the Minister has authorised Council to do so under section 16I.</p> <p><b>Note:</b> see also sections 16D, 16G and 16J.</p>	<p>GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP, UP, FTP</p>	
s 23A(2)	<p>Power to:</p> <ul style="list-style-type: none"> <li>- change the amendment in the manner requested;</li> <li>- not change the amendment in the manner requested; or</li> <li>- abandon the amendment or part of the amendment.</li> </ul>	<p>GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP, UP, FTP</p>	<p>Where Council is the planning authority.</p> <p>After considering a submission which requests a change to a 'low-impact' amendment (as described in section 16N).</p>
s 28(1) ( <i>amended</i> )	<p>Duty to notify the Minister if abandoning an amendment, with a copy of any submission considered, and a statement of reasons for the decision.</p>	<p>GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PSO, PUP, EO, SSO, SSTP, STOP, STP, STPH, SUP, UP, FTP</p>	<p>Note: the power to make a decision to abandon an amendment cannot be delegated</p>
s 28C	<p>Duty to comply with directions of the Minister after abandoning the amendment with respect to:</p> <ul style="list-style-type: none"> <li>- providing relevant documentation; and</li> <li>- providing assistance with steps to be taken for the amendment.</li> </ul>	<p>GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PUP, SSTP, STOP, STP, STPH, SUP, UP, FTP</p>	

s 48A	Power to notify an applicant that the application is incomplete <b>Note:</b> The notice must set out any required fees or information, the date for payment or production, and the effect of non-compliance set out in section 48B(1).	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PSO, PUP, SSO, SSTP, STOP, STP, STPH, SUP, UP, FTP	Where Council is the responsible authority
s 48C	Power to refund a fee paid for an application which is void and of no effect under section 48B(1)	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PSO, PUP, SSO, SSTP, STOP, STP, STPH, SUP, UP, FTP	Where Council is the responsible authority
s 96A(2) (amended)	Power to agree to consider an application for permit concurrently with preparation of proposed amendment	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PSO, PUP, EO, SSO, SSTP, STOP, STP, STPH, SUP, UP, FTP	The request to prepare the amendment must be made under section 16A.  Delegate must not agree to consider the application for the permit concurrently with the preparation of the proposed amendment unless it has made a decision under section 16B(a) to apply to the Minister for authorisation to prepare the amendment, with or without changes, under section 16F.
s 96Z (amended)	Duty to keep levy certificates and levy exemption certificates given to it under ss 47 or 96A for no less than 5 years from receipt of the certificate	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PSO, PUP, SSO, SUP, UP, FTP	

s 158F	Power to make submissions in response to a directions panel	GMSPCC, CLC, DCS, DPB, HSP, MCP, MHS, MPA, MPP, MSP, PLS, PSO, PUP, SSO, SSTP, STOP, STP, STPH, SUP, UP, FTP	
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