

6.2.3 Appointment of Authorised Officers under Planning and Environment Act 1997

Responsible GM: Debbie Tyson
Author: Owen Hardidge

Recommendation(s)

That Council resolve to appoint the follow staff members as Authorised Officers pursuant to Section 147(4) of the *Planning and Environment Act 1997*, and resolve to attach the Council Seal to the instruments of appointment attached to this report:

1. Mr Benjamin FURNER
2. Mr Peter TRUONG
3. Mr David GULENC

Attachments

1. Council 2021 08 16 Planning and Environment appoints TRUONG FURNER [6.2.3.1 - 3 pages]

Executive Summary

Section 147 (4) of the *Planning and Environment Act 1997* allows Council to appoint staff members to conduct enforcement when breaches of the planning scheme occur. Council routinely appoints staff members to undertake enforcement, and it is recommended that the three names staff members (who recently commenced with Council) should be so appointed. They will exercise their powers in accordance with the Cardinia Shire *Compliance and Enforcement Policy*.

Background

Section 147 (4) of the *Planning and Environment Act 1997* allows Council to appoint staff members to conduct enforcement when breaches of the planning scheme occur. When breaches of the scheme are detected, certain investigative powers may be exercised, such as entering land without consent, applying for search warrants, issuing infringements or issuing charge sheets. Only designated appointees may exercise these powers.

Council routinely appoints staff members to undertake enforcement. Typically, the Chief Executive Officer directly appoints staff, but a section 188 (2)(c) of the Planning and Environment Act do not allow this function to be delegated to the CEO. As such, Council resolutions are recommended to appoint staff members,

The three staff members (who recently commenced with Council) should be so appointed.

They will exercise their powers in accordance with the Cardinia Shire *Compliance and Enforcement Policy*.

Policy Implications

There are not Policy Implications with this report

Relevance to Council Plan

Not applicable.
Not applicable.

Climate Emergency Consideration

The are no Climate Emergency considerations.

Consultation/Communication

The is no consultation necessary in respect of this resolution

Financial and Resource Implications

There are no financial implications of this resolution. The named staff are existing staff members.

Conclusion

It is recommended that the three named staff members, Mr Benjamin Furner, Mr Peter Truong and Mr David Gulenc be appointed as authorised officers for the purpose of conducting enforcement powers under the *Planning and Environment Act 1997*.

**Instrument of Appointment and Authorisation
(Planning and Environment Act 1987)**

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

Mr Benjamin FURNER

By this instrument of appointment and authorisation Cardinia Shire Council -

1. under section 147(4) of the *Planning and Environment Act 1987* - appoints the officer/s to be authorised officer/s 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/s 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 the Cardinia Shire Council on 16th August 2021.

**The common seal of Cardinia Shire
Council was hereto affixed in the
presence of:**

Councillor

Chief Executive Officer

Date:

**Instrument of Appointment and Authorisation
(Planning and Environment Act 1987)**

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

Mr Peter TRUONG

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