

15 APPOINTMENT - TEAM 11 SPECIAL COMMITTEE

FILE REFERENCE INT1846312

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RECOMMENDATION

In exercise of the powers conferred by sections 86 and 87 of the *Local Government Act 1989 (LG Act)*, Council resolves that:

1. From the date of this resolution, there be established as a special committee to be known as the Team 11 Special Committee.
2. The purposes of the Committee are those set out in the Terms of Reference and Instrument of Delegation attached.
3. The membership of the Committee is as stated in the Terms of Reference and Instrument of Delegation attached.
4. The Committee is required to report to Council at the intervals specified in the Terms of Reference and Instrument of Delegation attached.
5. All members of the Committee have voting rights on the Committee.
6. There be delegated to the Committee the powers, functions and duties set out in the Terms of Reference and Instrument of Delegation attached.
7. The Terms of Reference and Instrument of Delegation:
 - 7.1 come into force immediately when the common seal of Council is affixed to them; and
 - 7.2 remain in force until Council determines to vary or revoke them.
8. The powers, functions and duties conferred on the Committee by the Terms of Reference and Instrument of Delegation must be exercised in accordance with any guidelines or policies Council may from time to time adopt.
9. Council's Common Seal be affixed to the Terms of Reference and Instrument of Delegation in the form attached.

Attachments

- 1 Terms of Reference and Instrument of Delegation 7 Pages

EXECUTIVE SUMMARY

To establish a special committee pursuant to section 86 of the *Local Government Act 1989 (LG Act)* (Committee) for the purpose of progressing a joint bid by Council, Greater Dandenong City Council and Casey City Council (the Councils) to Football Federation Australia (FFA) to be one of two teams to be added to the Hyundai A-League Competition, to delegate necessary powers, functions and duties to the Committee and to enter into a Memorandum of Understanding for that purpose.

BACKGROUND

Council is supporting and facilitating the establishment and operations of a consortium known as South-East Melbourne Team 11 to tender to be one of the two proposed clubs to be added to the Hyundai A-League competition in the 2019/20 season.

If the bid is successful, the Council will consider implementing certain infrastructure arrangements to support the proposed club, although this report does not deal with any such arrangements.

The Councils entered into a Memorandum of Understanding in relation to the proposed bid on 4 May 2017 and which has recently been re-signed.

On 29 June, FFA announced that the Councils' EOI bid had been successful and that they have been invited to participate in the request for proposal (RFP) phase of the FFA selection process, with proposals to be submitted by 31 August and a decision to be made by October 2018.

Depending on FFA's requirements, a corporate entity may need to be established prior to submission of RFP bid. The Councils will not be forming a company for this purpose, but may need to facilitate the establishment of a company through the Special Committee.

To assist the Councils with the preparation, finalisation and submission of the RFP, and to facilitate the establishment of a company if required, it is proposed that each of the Councils will:

1. establish a Team 11 Special Committee pursuant to section 86 of the LG Act; and
2. delegate to the Team 11 Special Committee the powers, functions and duties necessary for its purposes.

The Team 11 Special Committee

The Terms of Reference and Instrument of Delegation attached to this report provide for the establishment of the Team 11 Special Committee (Committee) and for Council to delegate certain powers, functions and duties to the Committee for the purposes of the RFP.

Each of the Councils will establish a Committee on identical terms and delegate the same powers, functions and duties to the Committee that it establishes. This is necessary because Council cannot, under s 86 of the LG Act, delegate powers, functions and duties to a special committee established by another council.

The Committee will:

1. have as its members the persons appointed to, or acting in, the position of Chief Executive Officer from time to time;
2. be established for the purposes of:
 - 2.1. coordinating developing, finalising and submitting the RFP, subject to a budget agreed between the Councils from time to time;
 - 2.2. identifying opportunities for collaboration with, sponsorship by and funding from parties external to the Councils to progress the RFP;
 - 2.3. engaging consultants and contractors as required to progress the RFP;

- 2.4. reporting to Council on a regular basis about the progress of the RFP;
 - 2.5. undertaking such other activities related to, and necessary for, the progress of the RFP;
 - 2.6. facilitating the establishment of a company which will be responsible for implementing the RFP, including:
 - 2.6.1. preparing the Constitution of the company; and
 - 2.6.2. identifying initial investors in the club according to criteria established and adopted by the Committee from time to time; and
 - 2.7. undertaking such other activities related to, and necessary for, implementation of the RFP.
3. have delegated to it the powers and functions set out in the Terms of Reference and Instrument of Delegation;
 4. conduct its meetings in accordance with procedures established by the Committee from time to time; and
 5. report to Council at least once every two months.

By delegating the relevant powers and functions to the Committee, the Committee will be able to meet and make decisions that are binding on the Councils in a more rapid and responsive way than might otherwise be permitted if a resolution of Council was required on each occasion.

The Councils will be kept informed of progress of the RFP by regular reporting from the Committee.

It is intended that the Committee will cease to operate if the RFP bid is unsuccessful or, if it is successful, following the transition of the role to implement the bid to a corporate entity.

POLICY IMPLICATIONS

Nil

RELEVANCE TO COUNCIL PLAN

The establishment and operations of a consortium known as South-East Melbourne Team 11 to tender to be one of the two proposed clubs to be added to the Hyundai A-League competition in the 2019/20 season is in keeping with the Council Plan goals to

- Provide active and passive recreation facilities to meet the needs of residents.
- Increase opportunities for residents to participate in a range of sport, recreation and leisure activities, and
- Advocate for the delivery of small and large scale projects that enhance and drive economic activity.

CONSULTATION/COMMUNICATION

Significant consultation has occurred between the participating Councils in regard to Team 11

FINANCIAL AND RESOURCE IMPLICATIONS

Allowance has been made in the 18/19 Budget for the operation of the Committee

CONCLUSION

Having regard to Council's commitment to the success of the RFP and the cooperation between the Councils, it is recommended that Council resolves in the terms of the Officer Recommendation to:

- establish the Committee; and
- delegate the relevant powers, functions and duties to the Committee.

TEAM 11 SPECIAL COMMITTEE

TERMS OF REFERENCE

1. BACKGROUND

- 1.1 By this Terms of Reference document, Cardinia Shire Council (**Council**) establishes the Team 11 Special Committee (**Committee**) pursuant to section 86 of the *Local Government Act 1989 (LGA)*.
- 1.2 The Committee is established for the purpose of progressing a joint bid by Council, Greater Dandenong City Council and Casey City Council (**Team 11 Councils**) to be one of two proposed clubs to be added to the Hyundai A-League Competition.
- 1.3 The Committee has the powers and functions of Council as set out in these Terms of Reference and the Instrument of Delegation. These Terms of Reference set out the structure and basis on which the Committee can make decisions for and on behalf of Council.
- 1.4 These Terms of Reference are authorised by a resolution of Cardinia Shire Council of Council passed on Monday 16 July 2018.

2. PURPOSE

The Committee is established for the purposes of:

- 2.1 coordinating developing, finalising and submitting a Request for Proposal (**RFP**) to be one of two proposed clubs to be added to the Hyundai A-League Competition, subject to a budget agreed between the Councils from time to time;
- 2.2 identifying opportunities for collaboration with, sponsorship by and funding from parties external to the Team 11 Councils to progress the RFP;
- 2.3 engaging consultants and contractors as required to progress the RFP;
- 2.4 reporting to Council on a regular basis about the progress of the RFP;
- 2.5 undertaking such other activities related to, and necessary for, the progress of the RFP;
- 2.6 facilitating the establishment of a company which will be responsible for implementing the RFP, including:
 - 2.6.1 preparing the Constitution of the company; and
 - 2.6.2 identifying initial investors in the club according to criteria established and adopted by the Committee from time to time; and
- 2.7 undertaking such other activities related to, and necessary for, implementation of the RFP.

3. OBJECTIVES

The objectives of the Committee are to:

- 3.1 develop, finalise and submit the RFP in a form that provides the Team 11 Councils with the best possible prospect of success; and

3.2 facilitate the establishment of a company to implement the RFP, if it is successful.

4. ROLES AND RESPONSIBILITY

The role of the Committee is to exercise Council's powers and carry out Council's functions, in accordance with these Terms of Reference and as permitted by the Instrument of Delegation, for the purposes of the RFP and its implementation, if successful.

5. DELEGATION OF POWERS, DUTIES AND FUNCTIONS

5.1 In order to fulfil and carry out its purposes and objectives, Council delegates to the Committee, pursuant to section 86(3) of the LGA, the powers and functions set out in the Instrument of Delegation made by Council on 16 July 2018 and attached to these Terms of Reference.

5.2 The powers and functions of Council conferred on the Committee by these Terms of Reference and Instrument of Delegation must be exercised in accordance with any guidelines or policies that Council may from time to time adopt.

5.3 Committee members are at all times expected to act in accordance with their responsibilities set out in Division 1A of Part 4 of the LGA.

6. MEMBERSHIP

6.1 The Committee will consist of three (3) members, being:

6.1.1 the person appointed to or acting in the position of Chief Executive Officer of Council from time to time;

6.1.2 the person appointed to or acting in the position of Chief Executive Officer of Greater Dandenong City Council from time to time; and

6.1.3 the person appointed to or acting in the position of Chief Executive Officer of Casey City Council from time to time.

6.2 Each Committee member is entitled to nominate another Officer of their Council to attend meetings of the Committee in their place and to exercise their vote (**Proxy**). An email from the Committee member to the Proxy advising of their nomination for one or more Committee meetings will be sufficient to show that the Proxy was duly nominated to attend those Committee meetings.

6.3 Council Officers who attend the meetings of the Committee (other than as a Proxy) are to provide advice and support to the Committee and are not considered Committee members and do not have voting rights.

6.4 Each Committee member has and may exercise one equal vote on any question before the Committee for determination.

6.5 The Chief Executive Officer of Greater Dandenong City Council will be the Chairperson of the Committee.

7. MEETINGS

7.1 Committee meetings will be conducted in accordance with procedures determined by the Committee from time to time.

7.2 The Committee will meet at least on a monthly basis, as agreed by the Committee from time to time.

7.3 A quorum of the Committee will be all three members.

- 7.4 Voting at Committee meetings will be conducted in accordance with the provisions of the LGA.
- 7.5 Sub committees may be appointed by the Committee and meet between Committee meetings and as authorised by the full Committee. Sub committees do not have any delegated powers.

8. FINANCIAL RECORDS

- 8.1 The Committee will keep books of account and such records will form part of the accounts of Council and therefore be subject to audit by Council's auditor.
- 8.2 The Committee will prepare an annual financial statement as part of the audit process.
- 8.3 The Committee will immediately comply with any request from Council to provide access to, or copies of, the Committee's books of account.

9. REPORTING

- 9.1 The Committee is responsible for taking proper minutes of all meetings and preparing reports for the Committee's consideration in accordance with the procedures determined by the Committee from time to time.
- 9.2 Minutes of all Committee meetings must be forwarded to Council's Chief Executive Officer as soon as practicable after adoption by the Committee.
- 9.3 The Committee must brief Council on its activities and financial position upon being required to do so by Council and, in any event, at least once every two months.

10. ADMINISTRATION

- 10.1 Greater Dandenong City Council agrees to resource the keeping of the Committee's financial records and the reporting of the Committee's activities.

11. CREATION AND DISSOLUTION

- 11.1 By these Terms of Reference the:
 - 11.1.1 Committee is established; and
 - 11.1.2 powers and functions of the Committee, as set out in the Instrument of Delegation, are delegated.
- 11.2 These Terms of Reference and the Instrument of Delegation:
 - 11.2.1 come into force immediately upon Council's common seal being affixed to them; and
 - 11.2.2 remain in force until Council resolves to vary or revoke both or either of them.
- 11.3 The Committee must be dissolved by a resolution of Council.

Dated: 16 July 2018

THE COMMON SEAL of **Cardinia Shire Council** was)
hereunto affixed in the presence of:)
)

Signed by:

..... COUNCILLOR

..... CHIEF EXECUTIVE OFFICER

ATTACHMENT

**Cardinia Shire Council
Instrument of Delegation
Team 11 Special Committee**

In exercise of the power conferred by section 86(3) of the *Local Government Act 1989 (LG Act)* Cardinia Shire Council (**Council**) delegates to the special committee established by resolution of Council passed on 16 July 2018 and known as the "Team 11 Special 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 16 July 2018;
2. the delegation:
 - 2.1 comes into force immediately upon Council's common seal being affixed to this Instrument of Delegation;
 - 2.2 remains in force until Council resolves to vary or revoke it; and
 - 2.3 is to be exercised in accordance with the guidelines or policies which Council from time to time adopts.

SCHEDULE**Powers and functions**

To exercise Council's powers and functions and to perform Council's duties in relation to the joint Request for Proposal (**RFP**) by Council, Greater Dandenong City Council and Casey City Council (**Team 11 Councils**) to be one of two teams to be added to the Hyundai A-League Competition, and to implement the RFP if it is successful, and for those purposes to:

1. oversee the development, finalisation and submission of the RFP;
2. approve expenditure which relates to the development, finalisation and submission of the RFP, within a budget set by the Team 11 Councils from time to time;
3. employ such persons and engage such contractors as it considers necessary or desirable for the development, finalisation and submission of the RFP within the Budget set by Council from time to time;
4. at least once every two months brief Council on the progress of the RFP;
5. facilitate the establishment of a company which will be responsible for implementing the RFP, including:
 - 5.1 preparing the Constitution of the company; and
 - 5.2 executing such documentation as is required for that establishment;
6. approve expenditure which relates to the establishment of a company and the broad implementation of the RFP within the Budget set by Council from time to time;
7. employ such persons and engage such contractors as it considers necessary or desirable for the establishment of company and the broad implementation of the RFP within the Budget set by Council from time to time;
8. enter into contracts for the acquisition of goods or services as it considers necessary or desirable for implementation of the RFP within the Budget set by Council from time to time;
9. exercise, where appropriate, the powers conferred by the Instrument of Delegation;
10. perform such other functions as Council confers on the Committee from time to time; and
11. do all things necessary or convenient to be done which are incidental to the performance of any of the functions or exercise of any of the powers set out above.

Exceptions, conditions and limitations

The Committee is not authorised by this Instrument to:

12. enter into contracts, or incur expenditure, for an amount which exceeds an amount previously determined by Council; or
13. sell any land or enter into a lease of land;
14. participate in the formation of a company, trust or other entity;
15. exercise the powers which, by force section 86 of the LG Act, cannot be delegated.

Dated: 16 July 2018

THE COMMON SEAL of **Cardinia Shire Council** was)
hereunto affixed in the presence of:)
)

Signed by:

..... COUNCILLOR

..... CHIEF EXECUTIVE OFFICER