

## DELEGATIONS POLICY

<b>Policy Number:</b>	2.4.7
<b>Approved by</b>	Chief Executive Officer
<b>Date Approved:</b>	December 2021
<b>Date of Next Review:</b>	December 2022
<b>Applicable to:</b>	Organisation
<b>Responsible Officer:</b>	General Manager Corporate Services
<b>Related Policies:</b>	Conflict of Interest Policy Fraud Control Policy Procurement Policy
<b>Related Documents:</b>	Various Instruments of Delegation Declaration and Management of Conflict of Interest Form
<b>Statutory Reference:</b>	<i>Local Government Act 1989</i> <i>Local Government 2020</i>

### OVERVIEW

Delegations are the mechanisms by which council enables its officers to act on behalf of Council. Delegations are a key element for effective governance and management of the Council and provide formal authority to delegated staff members.

#### What is a Delegation?

Delegation means the assignment of a duty, power or function to another, together with the authority to carry out that duty or complete the action assigned with responsibility for the outcome.

It is important to understand the following characteristics of delegation:

- a delegation may be revoked by formal decision of Council or the Chief Executive Officer;
- a delegation is allocated to a position and not to a person;
- a delegation can apply to those persons temporarily acting in the position, unless specially advised otherwise;
- delegations are only to be provided to those who have the skills, experience and/or the appropriate or approved qualification to undertake the task;
- where a function is delegated to more than one position, each position may exercise the delegated function independently unless otherwise indicated;
- Council is able to impose conditions or limitations on a delegation; and
- delegations are derived from sections 11 and 47 of the *Local Government Act 2020*.

A Delegation is **not**:

- the performance of an administrative task;
- an action of an authorised officer under section 224 of the *Local Government Act 1989*; or
- decision making under a statutory appointment.

## **Council currently have the following delegations:**

### **Instrument of Delegation from Council to the CEO (S5)**

This delegates all of Council's powers, duties and functions which are capable of delegation, subject to some exceptions and limitations, to the CEO.

### **Instrument of Delegation from Council to members of Council Staff (S6)**

This delegates certain powers directly from Council to Council staff due to the legislation referred to containing specific powers of delegation.

### **Instrument of Sub Delegation from CEO to members of Council Staff (S7)**

This sub-delegates Council powers, duties or functions contained in Acts or Regulations which do not include a specific power of delegation.

Instrument of Delegation S7 also contains a miscellaneous section which covers powers, duties and functions of Council that are not specifically provided for in legislation, but which are part of the general powers of Councils that are delegated to the Chief Executive Officer, and which, if it is appropriate, the Chief Executive Officer will sub delegate. These include finance issues (noting the specific procurement/expenditure delegations are incorporated in the Procurement Policy) and miscellaneous matters.

### **Instrument of Delegation from CEO to members of Council Staff (S13)**

This allows the CEO to delegate his or her powers, duties and functions existing under all Victorian legislation. This differs to the S7 Instrument in that it does not relate to *Council* powers, duties and functions, but those vested in the CEO personally.

### **Instrument of Delegation from CEO to members of Council Staff (S14) (VicSmart Applications)**

This delegates certain powers directly from Council to Council staff due to the legislation referred to containing specific powers of delegation under the *Planning and Environment Act 1987* in relation to VicSmart planning applications.

## **Appointments and Authorisations (S11)**

Council may appoint any person, other than a Councillor, to be an Authorised Officer for purposes of administration and enforcement of any Act, regulation or local law which relates to the functions and powers of Council.

All appointments and authorisation are to be made by the Chief Executive Officer, with the exception of the S11A Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*) as this particular instrument is made under Council resolution.

Council must maintain a register that shows the names of all staff appointed as Authorised Officers.

Individual identity cards are to be issued to each authorised officer and must contain:

- a photograph of the authorised officer; and
- the signature of the authorised officer.

An authorised officer must produce his or her identity card upon being requested to do so.

Authorised Officer identity cards will be provided upon commencement of duties and are to be returned to the Governance Officer on either cessation of their role or change of role.

## **POLICY COMPLIANCE**

- All persons acting under delegated authority are expected to read this Policy carefully so as to ensure that they understand and are familiar with the requirements with which they are to comply;
- All persons temporarily acting in a delegated position are expected to understand all delegations associated with the position whilst performing those duties;
- Delegations and sub delegations must be made available for public inspection upon request;
- Pursuant to section 11(7) of the *Local Government Act 2020*, this Policy and its incorporated Instruments of Delegation to Officers will be reviewed within 12 months of a general election;
- A breach of this policy or a delegation may be regarded as misconduct and can be dealt with by Council's Code of Conduct;
- A delegation must be exercised within its conditions and limitations and in accordance with all Council policies and procedures and any relevant legislation;
- All Officers to whom authority has been delegated shall exercise the delegation in accordance with any budget allocated; and
- A delegation cannot be exercised by a person who has a conflict of interest. If any conflict of interest occurs, it must be declared immediately and dealt with in accordance with Council's Code of Conduct and Conflict of Interest Policy.

## **HUMAN RIGHTS**

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.