

S5. Instrument of Delegation – By Council to CEO



MANSFIELD SHIRE

Instrument of Delegation
By
Council
to
the Chief Executive Officer

Endorsed by Council – 16 March 2021



Instrument of Delegation

In exercise of the power conferred by s 11(1) of the *Local Government Act 2020* (the Act) and all other powers enabling it, the Mansfield Shire Council (Council) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation,

AND declares that

1. this Instrument of Delegation is authorised by a Resolution of Council passed on the **sixteenth** day of **March 2021**.
2. the delegation
 - 2.1 comes into force immediately upon a resolution of Council;
 - 2.2 is subject to any conditions and limitations set out in the Schedule;
 - 2.3 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
 - 2.4 remains in force until Council resolves to vary or revoke it.

This Instrument of Delegation is dated 16 March 2021 and is made under resolution of Mansfield Shire Council.

.....

Councillor

.....

Witness



SCHEDULE

The power to

1. determine any issue;
2. take any action; or
3. do any act or thing

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

Conditions and Limitations

The delegate must not determine the issue, take the action, or do the act or thing

1. if the issue, action, act or thing is an issue, action, act or thing which involves
 - 1.1 entering into a contract for goods and services exceeding the value of \$150,000 or \$200,000 per works.
 - 1.2 appointing an Acting Chief Executive Officer for a period exceeding 28 days;
 - 1.3 election of a Mayor or Deputy Mayor;
 - 1.4 granting of a reasonable request for leave under section 35 of the Act;
 - 1.5 making any decision in relation to the employment, dismissal or removal of the Chief Executive Officer;
 - 1.6 approving or amending the Council Plan;
 - 1.7 adoption or amendment of any policy that Council is required to adopt under the Act;
 - 1.8 adopting or amending any policy that Council is required to adopt under the Act.
 - 1.9 adopting or amending the Governance Rules;
 - 1.10 appointing the chair or the members to a delegated committee;
 - 1.11 making, amending or revoking a local law;
 - 1.12 approval of the Budget or Revised Budget;
 - 1.13 approving the borrowing of money;
 - 1.14 subject to section 181H(1)(b) of the *Local Government Act 1989*, declaring general rates, municipal charges, service rates and charges and specified rates and charges;
2. if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution;
3. 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;



4. 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
 - 4.1 policy; or
 - 4.2 strategyadopted by Council; or
5. 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, whether on account of section 11(2)(a)-(n) (inclusive) of the Act or otherwise; or
6. 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.

Business Continuity Exception:

Where:

1. a State of Emergency has been declared under the *Public Health and Wellbeing Act 2008*; and
2. the delegate forms the opinion that any meeting of Council which would otherwise determine the issue, take the action or do the act or thing will lapse for want of a quorum,

all conditions and limitations specified in this Instrument, with the exception of that at paragraph 2 and 5 above, are, for the duration of the State of Emergency, suspended such that the existing delegation is expanded to include all matters that would normally be determined by the Council.