



MANSFIELD SHIRE

S6 Instrument of Delegation

By Council

To Chief Executive Officer

and

Members of Council Staff

with regard to Alpine Resort Areas

Endorsed by Council – 20 July 2021



Instrument of Delegation

In exercise of the power conferred by referred to in the attached Schedule, 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 a reference in the Schedule to:

CEO	Chief Executive Officer
SCCS	Senior Coordinator Community Safety
EHO	Environmental Health Officer

3. records that:

3.1 the powers delegated by this instrument relate to land in Alpine Resorts, being land to which the *Alpine Resorts Act 1983* applies;

3.2 the making of this instrument does not affect the force or continuity of any other delegation; and

4. declares that:

4.1. this Instrument of Delegation is authorised by a **resolution of Council** passed the **twentieth** day of **July 2021**; and

4.2. the delegation:

4.2.1 comes into force immediately upon a resolution of Council;

4.2.2 remains in force until varied or revoked;

4.2.3 is subject to any conditions and limitations set out in the Schedule; and

4.2.3 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and

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

4.3.1 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;

4.3.2 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;



- 4.3.3 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
- 4.3.4 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.

The Instrument of Delegation is dated 20 July 2021 and is made under resolution of Mansfield Shire Council.

..... Councillor

..... Chief Executive Officer



SCHEDULE

FOOD ACT 1984			
Column 1	Column 2	Column 3	Column 4
PROVISION	POWER, DUTY OR FUNCTION	DELEGATE	CONDITIONS & LIMITATIONS
s 19(2)(a)	power to direct by written order that the food premises be put into a clean and sanitary condition or be altered or improved to the satisfaction of an authorised officer	SCCS EHO	If s 19(1) applies
s 19(2)(b)	power to direct by written order that specified steps be taken to ensure that food prepared, sold or handled is safe and suitable	SCCS EHO	If s 19(1) applies
s 19(4)(a)	power to direct that an order made under s 19(3)(a) or (b), (i) be affixed to a conspicuous part of the premises, and (ii) inform the public by notice in a published newspaper or otherwise	CEO SCCS EHO	If s 19(1) applies
s.19(6)(a)	duty to revoke any order under s.19 if satisfied that an order has been complied with	CEO SCCS EHO	
s.19(6)(b)	duty to give written notice of revocation under s.19(6)(a) if satisfied that an order has been complied with	CEO SCCS EHO	
s 19AA(2)	power to direct, by written order, that a person must take any of the actions described in (a)-(c).	SCCS EHO	Where Council is the registration authority
s 19AA(4)(c)	power to direct, in an order made under s 19AA(2) or a subsequent written order, that a person must ensure that any food or class of food is not removed from the premises	CEO SCCS EHO	Note: the power to direct the matters under s 19AA(4)(a) and (b) not capable of delegation and so such directions must be made by a Council resolution



FOOD ACT 1984			
Column 1	Column 2	Column 3	Column 4
PROVISION	POWER, DUTY OR FUNCTION	DELEGATE	CONDITIONS & LIMITATIONS
s 19AA(7)	duty to revoke order issued under s 19AA and give written notice of revocation, if satisfied that that order has been complied with	SCCS EHO	Where Council is the registration authority
s 19CB(4)(b)	power to request copy of records	SCCS EHO	Where Council is the registration authority
s 19E(1)(d)	power to request a copy of the food safety program	SCCS EHO	Where Council is the registration authority
s.19GB	power to request proprietor to provide written details of the name, qualification or experience of the current food safety supervisor	CEO SCCS EHO	
s 19M(4)(a) & (5)	power to conduct a food safety audit and take actions where deficiencies are identified	SCCS EHO	Where Council is the registration authority
s 19NA(1)	power to request food safety audit reports	SCCS EHO	Where Council is the registration authority
s 19U(3)	power to waive and vary the costs of a food safety audit if there are special circumstances	CEO SCCS	
s 19UA	power to charge fees for conducting a food safety assessment or inspection	SCCS EHO	Except for an assessment required by a declaration under s 19C or an inspection under ss 38B(1)(c) or 39



FOOD ACT 1984			
Column 1	Column 2	Column 3	Column 4
PROVISION	POWER, DUTY OR FUNCTION	DELEGATE	CONDITIONS & LIMITATIONS
s 19W	power to direct a proprietor of a food premises to comply with any requirement under Part IIIB	SCCS EHO	Where Council is the registration authority
s 19W(3)(a)	power to direct a proprietor of a food premises to have staff at the premises undertake training or instruction	SCCS EHO	Where Council is the registration authority
s 19W(3)(b)	power to direct a proprietor of a food premises to have details of any staff training incorporated into the minimum records required to be kept or food safety program of the premises	SCCS EHO	Where Council is the registration authority
---	power to register, renew or transfer registration	CEO SCCS EHO	Where Council is the registration authority Refusal to grant/renew/transfer registration must be ratified by Council or the CEO (see s 58A(2))
s 36A	power to accept an application for registration or notification using online portal	CEO SCCS EHO	Where Council is the registration authority Note: This provision commences on 1 July 2021, unless proclaimed earlier
s 36B	duty to pay the charge for use of online portal	CEO SCCS EHO	Where Council is the registration authority Note: This provision commences on 1 July 2021, unless proclaimed earlier



s 38AA(5)	power to (a) request further information; or (b) advise the proprietor that the premises must be registered if the premises are not exempt	SCCS EHO	Where Council is the registration authority
s 38AB(4)	power to fix a fee for the receipt of a notification under s 38AA in accordance with a declaration under s 38AB(1)	CEO SCCS	Where Council is the registration authority
s 38A(4)	power to request a copy of a completed food safety program template	SCCS EHO	Where Council is the registration authority
s 38B(1)(a)	duty to assess the application and determine which class of food premises under s 19C the food premises belongs	SCCS EHO	Where Council is the registration authority
s 38B(1)(b)	duty to ensure proprietor has complied with requirements of s 38A	SCCS EHO	Where Council is the registration authority
s 38B(2)	duty to be satisfied of the matters in s 38B(2)(a)-(b)	SCCS EHO	Where Council is the registration authority
s 38D(1)	duty to ensure compliance with the applicable provisions of s 38C and inspect the premises if required by s 39	SCCS EHO	Where Council is the registration authority
s 38D(2)	duty to be satisfied of the matters in s 38D(2)(a)-(d)	SCCS EHO	Where Council is the registration authority
s 38D(3)	power to request copies of any audit reports	SCCS EHO	Where Council is the registration authority
s 38E(2)	power to register the food premises on a conditional basis	SCCS EHO	Where Council is the registration authority; not exceeding the prescribed time limit defined under s 38E(5)
s 38E(4)	duty to register the food premises when conditions are satisfied	SCCS EHO	Where Council is the registration authority
s 38F(3)(b)	power to require proprietor to comply with requirements of this Act	SCCS EHO	Where Council is the registration authority
s 38G(1)	power to require notification of change of the food safety program type used for the food premises	SCCS EHO	Where Council is the registration authority



			Note: This provision commences on 1 July 2021, unless proclaimed earlier
s 38G(2)	power to require the proprietor of the food premises to comply with any requirement of the Act	SCCS EHO	Where Council is the registration authority Note: This provision commences on 1 July 2021, unless proclaimed earlier
s.39A	power to register, renew or transfer food premises despite minor defects	CEO SCCS EHO	Where Council is a registration authority Only is satisfied of matters in s 39A(2)(a)-(c)
s.40(2)	power to incorporate the certificate of registration in one document with any certificate of registration under the Public Health and Wellbeing Act 2008	SEHO EHO	
s 40C(2)	power to grant or renew the registration of food premises for a period of less than 1 year	SCCS EHO	Where Council is the registration authority
s.40D(1)	power to suspend or revoke the registration of food premises	CEO SCCS EHO	
s 40F	power to cancel registration of food premises	CEO SCCS	Where Council is the registration authority Note: This provision commences on 1 July 2021, unless proclaimed earlier
s 43F(6)	duty to be satisfied that registration requirements under Division 3 have been met prior to registering, transferring or renewing registration of a component of a food business	SCCS EHO	Where Council is the registration authority
s 43F(7)	Power to register the components of the food business that meet requirements in Division 3 and power to refuse to register the components that do not meet the requirements	SCCS EHO	Where Council is the registration authority
s 46(5)	Power to institute proceedings against another person where the offence was due to an act or default by that other person and where the first person charged could successfully defend a prosecution, without proceedings first being instituted against the person first charged	CEO SCCS	Where Council is the registration authority • Action must be ratified by Council