

S5

**Instrument of Delegation
to
the Chief Executive Officer**

September 16, 2024

Instrument of Delegation to the Chief Executive Officer (S5)

In exercise of the power conferred by section 11(1) of the *Local Government Act 2020* (the Act) and all other powers enabling it, the Wodonga City Council (the Council) delegates to the member of the council staff holding or acting in 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 the Council passed on September 16, 2024;
- 2. the delegation
 - 2.1 comes into force immediately upon this resolution being made and is to be signed by the Council’s Chief Executive Officer and the Mayor;
 - 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 the council from time to time adopts; and
 - 2.4 remains in force until Council resolves to vary or revoke it.

Signed by the Chief Executive Officer of Council }
in the presence of }

.....
Witness

Date

Signed by the Mayor in the presence of }
}

.....
Witness

Date

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 the 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 exceeding the value of \$500,000 (excl GST), unless the contract is for an item approved in the current budget, and the contract amount does not exceed the budgeted amount, in which case the contract value must not exceed \$5,000,000 (excl GST);
 - 1.2 making any expenditure that exceeds \$500,000 (excl GST), unless it is expenditure made under a contract already entered into or is expenditure which Council is, by or under legislation, required to make in which case it must not exceed \$2,000,000 (excl GST);
 - 1.3 appointing an Acting Chief Executive Officer for a period exceeding 28 days;
 - 1.4 electing a Mayor or Deputy Mayor;
 - 1.5 granting a reasonable request for leave under section 35 of the Act;
 - 1.6 making any decision in relation to the employment, dismissal or removal of the Chief Executive Officer;
 - 1.7 approving or amending the Council Plan;
 - 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 approving 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; or
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 at a council meeting;
3. if the issue, action, act or thing is an issue, action, act or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council at a council meeting;
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

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- 4.2 strategy
- adopted by the 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 s 11(2)(a)-(n) (inclusive) of the Act or otherwise; or
 6. if 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 the council staff.
 7. if the issue, action, act or thing is one where the council has retained the power to make a decision in respect to it, as listed below, and as recorded in the documents:- *Instrument of delegation from the council to staff other than the CEO (S6)* and *Instrument of sub-delegation by the CEO (S7)*:

Instrument of Delegation from the council to staff other than the CEO (S6)

Local Government Act 1989	
s.185L(4)	Power to declare and levy a cladding rectification charge.

Planning and Environment Act 1987	
s.4B	Power to prepare an amendment to the Victoria Planning Provisions.
s.8A(2)	Power to prepare amendment to the planning scheme where the Minister has given consent under s.8A.
s.8A(3)	Power to apply to Minister to prepare an amendment to the planning scheme.
s.8B(2)	Power to apply to the Minister for authorisation to prepare an amendment to the planning scheme of an adjoining municipal district.
s.12(3)	Power to carry out studies and do things to ensure proper use of land and consult with other persons to ensure co-ordination of planning scheme with these persons.
s.12B(1)	Duty to review planning scheme.
s.12B(2)	Duty to review planning scheme at direction of Minister.
s.12B(5)	Duty to report findings of review of planning scheme to Minister without delay.
s.22(1)	Duty to consider all submissions received before the date specified in the notice.
s.22(2)	Power to consider a late submission. Duty to consider a late submission, if directed by the Minister.
s.23(1)(b)	Duty to refer submissions which request a change to the amendment to a panel.
s.23(2)	Power to refer submissions to a panel.
s.27 (2)	Power to apply for exemption if panel's report not received.

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s.46AX	Function of receiving a draft Statement of Planning Policy and written direction in relation to the endorsement of the draft Statement of Planning Policy. Power to endorse the draft Statement of Planning Policy.
s.46GR(1)	Duty to consider every submission that is made by the closing date for submissions included in the notice under s.46GO.
s.46GS(1)	Power to accept or reject the estimate of the value of the inner public purpose land in a submission made under s.46GQ.
s.46GS(2)	Duty, if Council rejects the estimate of the value of the inner public purpose land in the submission, to refer the matter to the valuer-general, and notify the affected owner of the rejection and that the matter has been referred to the valuer-general.
s.46GU	Duty not to adopt an amendment under s.29 to an infrastructure contributions plan that specifies a land credit amount or a land equalisation amount that relates to a parcel of land in the ICP plan area of the plan unless the criteria in s.46GU(1)(a) and (b) are met.
s.46Q(4)(d)	Duty to submit to the Minister an amendment to the approved development contributions plan.
s.61(1)	Power to decide to grant a permit (if there are greater than five objections), grant a permit with conditions (if there are greater than five objections), or to refuse the permit (if there are greater than five objections).
s.84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit.
s.84(2)	Duty not to issue a permit or notice of decision or refusal after an application is made for review of a failure to grant a permit.
s.87(3)	Power to apply to VCAT for the cancellation or amendment of a permit.
s.96F	Duty to consider the panel's report under section 96E.
s.97C	Power to request Minister to decide the application.
s.107(3)	Power to agree to extend time for making claim.
s 113(2)	Power to request a declaration for land to be proposed to be reserved for public purposes.
s.172C	Power to compulsorily acquire any outer public purpose land that is specified in the approved infrastructure contributions plan.
s.172D(1)	Power to compulsorily acquire any inner public purpose land that is specified in the plan before the time that the land is required to be provided to Council under s.46GV(4).
s.172D(2)	Power to compulsorily acquire any inner public purpose land, the use and development of which is to be the responsibility of Council under the plan, before the time that the land is required to be provided under s.46GV(4).
s.173(1A)	Power to enter into an agreement with an owner of land for the development or provision of land in relation to affordable housing.
s.178	Power to amend a s.173 agreement with the agreement of all those bound by any covenant in the agreement or otherwise in accordance with Division 2 of Part 9 – if there are no budget implications with an amendment the matter can be dealt with by the CEO or DPI under delegation.

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-	Power to approve Development Plans as required under clause 43.04 of the Wodonga Planning Scheme.
-	Power to approve planning permit applications within the landfill buffer.

Road Management Act 2004

s.12(2)	Power to discontinue road or part of a road.
s.12(5)	Duty to consider written submissions received within 28 days of notice.
s.12(6)	Function of hearing a person in support of their written submission.
s.14(7)	Power to appeal against decision of VicRoads.
s.17(3)	Power to decide that a road is reasonably required for general public use.
s.17(4)	Power to decide that a road is no longer reasonably required for general public use.
s.22(2)	Function of commenting on proposed direction.
s.42A(4)	Power to approve Minister's decision to specify a road as a specified freight road.

Planning and Environment Regulations 2015

r.42	Function of receiving notice under section 96C(1)(c) of the Act from a planning authority of its preparation of a combined application for an amendment to a planning scheme and notice of a permit application.
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Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010

r.17(1)	Power to determine the fee to accompany applications for registration or applications for renewal of registration.
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Road Management (Works and Infrastructure) Regulations 2015

r.22(2)	Power to waive whole or part of fee in certain circumstances.
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Instrument of Sub-Delegation by the CEO (S7)

Aboriginal Heritage Act 2006

s.74A(1)	Power to enter into an Aboriginal cultural heritage land management agreement with a registered Aboriginal party.
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Building Act 1993

s.66(b)(i)	Function of determining fees.
sch 2 cl.4(4)	Power to fix fees in accordance with cl.4(5).

Climate Change Act 2017

s.46	Power to make statement (a council pledge) in respect of greenhouse gas emissions reductions.
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Domestic Animals Act 1994	
s.18(2)(b)	Power to fix fee for inspection of registrations of dogs and cats in the municipality.
s.18(3)	Power to fix fees for making of records or obtaining certificates.
s.41J(3)	Power to fix fee for application for permit.
s.49(1)	Power to fix fees for registration or renewal of registration of domestic animal premises.
s.52(2)(c)	Power to fix fee for transfer of registration.
s.68G(c)	Power to fix fee for applications under s 68C or 68D(2).
s.98(1A)	Power to apply to VCAT for review of a decision by Minister in relation to registration of domestic animal business.

Food Act 1984	
s.71(a)	Power to revoke or suspend the registration of the food premises under Part IIIB or section 40D in certain circumstances.

Gambling Regulation Act 2003	
s.3.3.6	Power to make submission to Commission on application for approval of premises.
s.3.3.14	Power to apply to Tribunal for review of Commission's decision granting approval of premises.
s.3.4.19	Power to make submission to the Commission addressing the economic and social impact of a proposed licence amendment on the wellbeing of the community of the municipal district in which the approved venue is located; and taking into account the impact of the proposed amendment on surrounding municipal districts.
s.3.4.21(2)	Power to apply to Tribunal for review of Commission's decision relating to amendment increasing number of gaming machines.
s.8.5.5	Power to submit report to Commission on application received under s.8.5.3(3)(a).

Heritage Act 2017	
s.100(1)	Function of receiving copy of permit application from Executive Director.
s.108(4)	Power to request a hearing be held by the Heritage Council in relation to an application for review under s.107 of Executive Director's determination.

Housing Act 1983	
Sch 2, cl 3(1)	Power to sell or give to the Director any land vested in it, other than Crown land.
Sch 2, cl 3(2)	Power to lease land, enter into agreements with the Director concerning land, or apply funds for carrying out such agreement.

Land Acquisition and Compensation Act 1986	
s.10(4)	Duty of the authority to give notice of cancellation/lapse in writing.

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s.10(7)	Duty of the authority to pay fees where an owner applies for a new s.32(2) certificate.
s.14(1)	Power of an authority to amend notice upon agreement with persons on whom it was served.
s.15(1)	Power of an authority not to proceed with the acquisition.
s.17	Power of the authority to agree with owner to extend operation of notice.
s.18(1)	Power of the authority to acquire interest in land by agreement.
s.31(1) and supporting provisions	Power of the authority to make an offer, including the Power to determine amount of the offer.
s.45(1)	Power of the authority to grant a loan to claimant.
s.51(8)	Power of the authority to advance compensation to assist a person purchasing another interest in land.
s.80	Power of the authority to refer a claim to the Court/Tribunal for determination.
s.109(1)	Power of the authority to sell, lease or deal with an interest in land.

Liquor Control Reform Act 1998

s.40(1)	Power to object to grant, variation or relocation of a licence.
s.40(1A)	Power to object to grant, variation or relocation of packaged liquor licence or late night (packaged liquor) licence.

Local Government Act 2020

s.112(1)	Power to purchase or compulsorily acquire any land which is or may be required by the Council for or in connection with, or as incidental to, the performance of its functions or the exercise of its powers.
s.115(1)	Power to lease land where there is a requirement to give public notice in accordance with Council's Community Engagement Policy.

Local Government Act 1989

s.181H	Power to enter into an environmental upgrade agreement on behalf of Council and declare and levy an environmental upgrade charge.
s.203(1)	Power to develop and implement a transport plan.
s.203(2)	Power to prepare a transport plan jointly with one or more other councils.
s.203A	Power to procure, provide or enable transport services within the municipal district.
s.204(1)	Power to publish notice in Government Gazette of road to be declared a public highway.
Sch 11, cl.13	Power to determine speed limits.

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Major Transport Projects Facilitation Act 2009	
s 111C(1)(a)	Power to enter into an agreement with project authority.
s.146(2)	Power to claim compensation for pecuniary loss or expense incurred.

National Parks Act 1975	
s.19C(1)	Power to enter into agreement with Minister for management of land vested in or controlled or managed by Council.

Sex Work Act 1994	
s.73	Duty to consider various factors before deciding on an application for a permit for use or development as a brothel.
s.74	Duty to refuse to grant a permit for a brothel in certain circumstances.
s.75A	Duty to determine an application or request for an amendment in relation to a permit issued for the use or development of land for the purposes of the operation of a brothel.
s.76(1)	Duty to determine an application for a permit made but not determined before commencement of Division 2 Part 4, in accordance with <i>Planning and Environment Act 1987</i> as affected by Division 2 Part 4.
s.76(2)	Duty to determine an application for extension of temporary use permit granted before commencement of Division 2 Part 4 in accordance with <i>Planning and Environment Act 1987</i> as if this Act had not been enacted.

Subdivision Act 1988	
s.17(2)(c)	Power to enter into agreement with owner or applicant in anticipation of applicant becoming owner.
s.17(2A)	Power to request Minister to nominate authority to consider what works are required.
s.17(2D)	Power to transfer works / interest in land relating to the works by agreement from Council to a relevant authority.
s.34E	Power to apply to VCAT for order compelling an owners corporation to carry out a requirement or perform a duty.
s.39(3)	Power to apply to the County Court to order registration of plan be stopped in certain circumstances.
Schedule 2 clause 11(1)	Power to apply to a court for an order regarding scheme of development.

Transfer of Land Act 1958	
s.45(1)	Power to sign a transfer of land in respect of which a decision to acquire or dispose of land has been made under the <i>Local Government Act 2020</i> .
s.73B	Power to consent to the creation or surrender of the right of carriageway.

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s.88(1B)	Power to consent to the varying or releasing of a restrictive covenant.
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Miscellaneous	
Not applicable	Power to determine fees and charges.
Not applicable	Power to approve sponsorship by third parties of council facilities and council run events valued at over \$20,000 per annum
Not applicable	Power to approve grants under council's various community grant programs
Not applicable	Power to approve overseas travel by councillors, CEO & Directors
Not applicable	Power to approve sponsorships and donations >\$3,000.