

DELEGATIONS POLICY

Policy Number:	2.4.7
Approved by	Council
Date Approved:	December 2023
Date of Next Review:	December 2024
Applicable to:	Organisation
Responsible Officer:	Manager Organisational Performance and Governance
Related Policies:	Conflict of Interest Policy Fraud Control Policy Procurement Policy
Related Documents:	Various Instruments of Delegation Employee Conflict of Interest Declaration & Management Plan
Statutory Reference:	<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 its behalf. 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 (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 their 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.

Instrument of Delegation by Chief Executive Officer for Bushfire Reconstruction (S16)

This is used by a council's CEO to delegate the powers under the *Planning and Environment Act 1987* in respect of bushfire reconstruction applications.

Instrument of Sub-Delegation under the Environment Protection Act 2017 (S18)

This instrument gives Council the power to exercise the Environment Protection Agency's powers and functions under the *Environment Protection Act 2017* only for the purpose of regulating onsite wastewater management systems with a design or actual flow rate of sewage not exceeding 5000 litres on any day and noise from the construction, demolition or removal of residential premises.

S19A Instrument of Delegation of the Municipal Fire Prevention Office under the Country Fire Authority Act 1958 (S19A)

This instrument is used by Council under s 96A(2) of the *Country Fire Authority Act 1958*. The municipal fire prevention officer has power to delegate to an assistant fire prevention officer any power or duty of the fire prevention officer under this Act or the regulations (except the power of delegation).

POLICY COMPLIANCE

- All persons acting under delegated authority are expected to read this Policy carefully 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 Employee 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 Employee 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.

REVISION HISTORY

VERSION	DATE	MAJOR / MINOR UPDATE	SUMMARY OF CHANGES
1.0	December 2023	Minor update	Updated Responsible Officer title and legislative references
1.1	December 2024	Minor update	Date of Next Review updated to: December 2024 Section titled 'Appointments and Authorisations (s11)' removed and incorporated into new policy Approved by: updated from CEO to Council