

S5 Instrument of Delegation to Chief Executive Officer

South Gippsland Shire Council

Instrument of Delegation

to

The Chief Executive Officer

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, South Gippsland 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 16 March 2022;
2. the delegation
 - 2.1 comes into force immediately when the common seal of Council is affixed to this Instrument of Delegation;
 - 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.

The Common Seal of the South Gippsland Shire Council was affixed in the presence of Kerryn Ellis, Chief Executive Officer.



Date: 16 March 2022

Delegation Sources

- Local Government Act 2020

Titles

- CEO: Chief Executive Officer

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

- A. 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 making any expenditure or entering into a contract that exceeds \$750,000 (inclusive of GST) unless it is:
 - (a) expenditure made under a contract already entered into;
 - (b) expenditure which Council is, by or under legislation, required to make in which case it must not exceed budget allocation;
 - (c) any other contract which complies with Council's procurement policy and is delegated to the Chief Executive Officer to award by a resolution of Council;
 - (d) a contract or expenditure that complies with Council's Capital Works Program adopted in the Annual Budget; or
 - (e) annual WorkCover and Council insurance premiums.
 - (f) if there is a state of emergency declared under the *Public Health and Wellbeing Act 2008* or state of disaster under the *Emergency Management Act 1986* and 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 may the delegate (following consultation with the Mayor if available and subject to any decision made by the delegate being reported to the next available Council Meeting) award a contract equal to or exceeding the value of \$750,000 (inclusive of GST) to a maximum value of \$3,000,000 (inclusive of GST);
 - (g) in case of an emergency caused by an extraordinary event, including severe weather conditions, when the response must be taken urgently in order to ensure the safety of the community, the repair and remediation works directly attributable to that emergency and a contract does not exceed the value of \$3,000,000 (inclusive of GST), the CEO may declare an 'emergency event' and determine that a contract must be entered into due to this emergency, subject to that contract being within the Chief Executive Officer's 'emergency event' financial delegation;

- (h) any tender over the public tender threshold of \$250,000 (inclusive of GST) and any other financial delegation in excess of \$750,000 (inclusive of GST) in accordance with Council's Procurement Policy, must be reported to the next appropriate Council meeting.
- 1.2 appointing an Acting Chief Executive Officer for a period exceeding 28 days;
- 1.3 electing a Mayor or Deputy Mayor;
- 1.4 granting a reasonable request for leave under s 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 adopting or amending any policy that Council is required to adopt under the Act;
- 1.8 adopting or amending the Governance Rules;
- 1.9 making, amending or revoking a local law;
- 1.10 approving the Budget or Revised Budget;
- 1.11 approving the borrowing of money; or
- 1.12 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, 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 s 11(2)(a)-(n) (inclusive) of the Act or otherwise.

B. For the avoidance of any doubt, the delegate may perform the following functions:

- 1. endorse the appointment of members to fill casual vacancies in Advisory Committees, subject to those appointments being advised to Council;
- 2. appointment of the chair or the members to a delegated committee;
- 3. use the Common Seal of Council, subject to that use being reported to Council;
- 4. pay annual WorkCover and Council Insurance premiums, subject to payments being reported to the next Council meeting immediately after payment is made; and

5. approving Tenders for the Capital Works Program that have been through the Council's Tender Process in accordance with the Procurement Policy.