

***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 98(1) of the *Local Government Act 1989* (**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 25 March 2020;
2. the delegation
  - 2.1 comes into force immediately 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; and
3. the member of Council staff occupying the position or title of or acting in the position of Chief Executive Officer may delegate to a member of Council staff any of the powers (other than the power of delegation conferred by s 98(3) of the Act or any other powers not capable of sub-delegation) which this Instrument of Delegation delegates to him or her.

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

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Date: 25 March 2020

### **Delegation Sources**

- Local Government Act 1989

### **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. Only if there is a state of emergency declared under the *Public Health and Wellbeing Act 2008* 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 any available Administrators and subject to any decision made by the delegate being reported to the next available Council Meeting):
1. award a contract equal to or exceeding the value of \$250,000 (inclusive of GST) with the exception of:
    - annual WorkCover and Council insurance premiums; and
    - 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;
  2. make a local law under Part 5 of the Act;
  3. approve the Council Plan under s 125 of the Act;
  4. adopt the Strategic Resource Plan under s 126 of the Act;
  5. prepare or adopt the Budget or a Revised Budget under Part 6 of the Act;
  6. adopt the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act;
  7. determine pursuant to s 37 of the Act that an extraordinary vacancy on Council not be filled;
  8. exempt a member of a special committee who is not a Councillor from submitting a return under s 81 of the Act;
  9. appoint Councillor or community delegates or representatives to external organisations; or
  10. return the general valuation and any supplementary valuations; and
  11. determine an issue, take action or do an act or thing which would or would be likely to involve a decision which is inconsistent with a:
    - 11.1 policy; or
    - 11.2 strategy

adopted by Council.

- B. 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 is required by law to be done by Council resolution;
  2. 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;
  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, whether on account of s 98(1)(a)-(f) (inclusive) of the Act or otherwise; or
  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.
- C. 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. appoint or remove members to a Special Committee established under s 86 of the Act, subject to those appointments and removals being advised to Council;
  3. declare that a contract must be entered into because of an emergency under s 186(5)(a) of the Act, subject to that contract being within the Chief Executive Officer's financial delegation and the declaration being reported to the next Council meeting;
  4. use the Common Seal of Council, subject to that use being reported to Council;
  5. pay annual WorkCover and Council Insurance premiums, subject to payments being reported to the next Council meeting immediately after payment is made; and
  6. appoint an Acting Chief Executive Officer for a period of no longer than two months.
- D. The delegate must not delegate any of the functions set out in C.