

S5 Instrument of Delegation to the Chief Executive Officer

Updated April 2020

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Instrument of Delegation

In exercise of the power conferred by section 98(1) of the *Local Government Act 1989* (**the Act**) and all other powers enabling it, the **Nillumbik 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 28 April 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 temporarily increases the financial limit of the Chief Executive Officer from \$150,000 for goods and services and \$200,000 for the carrying out works to \$500,000 with the increased delegation to be used only:
 - i. in the event that Council is unable to meet because of circumstances related to the COVID19 pandemic; and
 - ii. the delegate consults with the Mayor and Councillors where practicable and has regard to any views that they express.
 - 2.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts;
 - 2.5 remains in force until Council resolves to vary or revoke it.
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 section 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 NILLUMBIK)
SHIRE COUNCIL was affixed hereto)
On the day of 2020)
On the authority of the Council and)
signed by:)

..... Councillor

..... Chief Executive Officer

Local Government Act 1989

Provision	Item Delegated	Delegate	Conditions and Limitations
98(1)	<p>SCHEDULE</p> <p>The power to</p> <ol style="list-style-type: none"> 1. determine any issue; 2. take any action; or 3. do any act or thing <p>arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.</p>	CEO	<p>The delegate must not determine the issue, take the action or do the act or thing</p> <ol style="list-style-type: none"> 4. if the issue, action, act or thing is an issue, action, act or thing which involves <ol style="list-style-type: none"> 4.1 awarding a contract exceeding the value of \$500,000: <ul style="list-style-type: none"> • except in circumstances where the Chief Executive Officer determines that a contract must be entered into because of an emergency in the terms of s 186(5)(a) of the Act. 4.2 making a local law under Part 5 of the Act; 4.3 approval of the Council Plan under s 125 of the Act; 4.4 adoption of the Strategic Resource Plan under s 126 of the Act; 4.5 preparation or adoption of the Budget or a Revised Budget under Part 6 of the Act; 4.6 adoption of the Auditor’s report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act; 4.7 determining pursuant to s 37 of the Act that an extraordinary vacancy on Council not be filled; 4.8 exempting a member of a special committee who is not a Councillor from submitting a return under s 81 of the Act; 4.9 appointment of councillor or community delegates or representatives to external organisations; or 4.10 the return of the general valuation and any supplementary valuations; 5. 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; 6. 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;

Local Government Act 1989

Provision	Item Delegated	Delegate	Conditions and Limitations
			<p>7. 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</p> <ul style="list-style-type: none">7.1 policy; or7.2 strategy <p>adopted by Council; or</p> <p>8. 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</p> <p>9. 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.</p>