

# **S5 Instrument of Delegation to the Chief Executive Officer**

Updated August 2020

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## Instrument of Delegation

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 **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 25 August 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.

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 2020**

Provision	Item Delegated	Delegate	Conditions and Limitations
11(1)	<p><b>SCHEDULE</b></p> <p>The power to</p> <ol style="list-style-type: none"> <li>1. determine any issue;</li> <li>2. take any action; or</li> <li>3. do any act or thing</li> </ol> <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"> <li>3. if the issue, action, act or thing is an issue, action, act or thing which involves               <ol style="list-style-type: none"> <li>3.1 entering into a contract exceeding the value of \$500,000.</li> <li>3.2 making any expenditure that exceeds \$500,000.</li> <li>3.3 appointing an Acting Chief Executive Officer for a period exceeding 28 days;</li> <li>3.4 electing a Mayor or Deputy Mayor;</li> <li>3.5 granting a reasonable request for leave under s 35 of the Act;</li> <li>3.6 making any decision in relation to the employment, dismissal or removal of the Chief Executive Officer;</li> <li>3.7 approving or amending the Council Plan;</li> <li>3.8 adopting or amending any policy that Council is required to adopt under the Act;</li> <li>3.9 adopting or amending the Governance Rules;</li> <li>3.10 appointing the chair or the members to a delegated committee;</li> <li>3.11 making, amending or revoking a local law;</li> <li>3.12 approving the Budget or Revised Budget;</li> <li>3.13 approving the borrowing of money;</li> <li>3.14 subject to section 181H(1)(b) of the <i>Local Government Act 1989</i>, declaring general rates, municipal charges, service rates and charges and specified rates and charges;</li> </ol> </li> <li>4. 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;</li> <li>5. 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;</li> </ol>

**Local Government Act 2020**

<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
			<p>6. 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> <p>6.1 policy; or</p> <p>6.2 strategy</p> <p>adopted by Council;</p> <p>7. 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; or</p> <p>8. 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>

## CEO Delegation Benchmark

Interface	Population	Financial Delegation Prior Covid	Financial Delegation Covid Related - Current	Capex Budget	Comments
Cardinia (S)	87,008	\$250K contracts	\$1m	\$59.15m	Emergency delegation in place if Council cannot meet \$5m
Casey (C)	283,415	\$1m	\$5m	\$131m	
Hume (C)	188,832	\$500K	No change	\$147.88m	
Melton (C)	127,677	\$500K	No change	\$105.63m	
Mornington Peninsula (S)	153,800	\$1m for items already in budget \$500K for services \$750K for contracts	No change	\$52.5m	Emergency included powers not related to financial
Nillumbik (S)	62,872	\$150,000 goods and services \$200,000 carry out works	\$150,000 goods and services 200,000 carry out works  \$500,000 with limits <sup>^</sup>	\$35.76m	<p>^\$500,000 increased delegation only to be used in the event Council are not able to meet and are related to the Covid 19 pandemic and CEO to consult with the Mayor and Councillors where practicable and has regard to any views that they express.</p> <ul style="list-style-type: none"> <li>Also the delegation reverts back following the lifting of the State emergency and delegation to be presented to Council for the first meeting held.</li> </ul>
Whittlesea (C)	187,006	\$1m		\$84.2m	Change made in May unrelated to COVID. With a clause that the CEO may authorise up to 25% increase in current awarded contracts.
Wyndham (C)	199,715	\$1m	No change	\$103.84m	
Yarra Ranges (S)	150,098	\$1m	No change	\$75.53	New delegation going to Council to meet the LGA 2020 requirements. No change to the amount.

Regional	Population	Financial Delegation Prior Covid	Financial Delegation Covid Related - Current	Capex Budget	Comments
Latrobe (C)	73,653	\$500K	\$5m Emergency measure if Council cannot meet. Emergency measure now removed.	\$80m	Covid change in March. Updated again in May to the updated LGA 2020 requirements. No change in the amount

Large Shire	Population	Financial Delegation Prior Covid	Financial Delegation Covid Related - Current	Capex Budget	Comments
Baw Baw (S)	45,945	\$750K	No change	\$33.7m	Updated November 2019 from \$250
Mitchell (S)	38,515	\$300K	No change	\$32.17m	Possible change dependent on new CEO and new Council

Metropolitan	Population	Financial Delegation Prior Covid	Financial Delegation Covid Related - Current	Capex Budget	Comments
Banyule (C)	125,503	\$500,000	No change	\$62.03m	Proposing to move \$1m Public Tender, \$2m – Agency arrangements (MAV/PA), \$100k sole source
Darebin (C)	148,728	\$500,000	No change	\$37.46m	Proposing to move to \$1m
Moreland (C)	163,000	\$800,000	\$800,000	\$55.99m	Prior to virtual meetings being introduced CEO delegation changed to \$1m. As soon as they were permitted delegation went back to \$800,000