



<b>14.5.</b>	<b>Review of Instruments of Delegation</b>
<b>Author:</b>	Executive Project Officer
<b>Portfolio:</b>	Governance & Finance
<b>Councillor:</b>	Cr Grigau

**Purpose**

The purpose of this report is for Council to delegate certain powers to the Chief Executive Officer and members of Council staff to enable the effective and efficient management of the Council administration.

**Executive Summary**

*Portfolio 5: Governance and Finance*

*Strategic Objective: To provide a financially viable Council that is accountable, transparent and practices good governance.*

*Priority 3: Accountable and transparent governance*

This report presents recommended amendments to Council’s existing Instrument of Delegation to the Chief Executive Officer and its existing Instrument of Delegation to Members of Council staff. It takes into account legislative changes which were assented to, or made, on or after 20 January 2023, and some other miscellaneous changes, which affect councils’ powers, duties and functions.

**RECOMMENDATION**

That Council, in the exercise of the powers conferred by legislation referred to in the attached Instruments of Delegation, resolves that:

1. There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the attached *Instrument of Delegation to the Chief Executive Officer*, subject to the conditions and limitations specified in that Instrument. (Appendix 14.5.1)
2. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached



*Instrument of Delegation to members of Council staff*, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument. (Appendix 14.5.2)

3. The *Instrument of Delegation to the Chief Executive Officer* comes into force upon this resolution being made and once the common seal of Council is affixed to the instrument.
4. The *Instrument of Delegation to members of Council staff* comes into force immediately upon this resolution being made and once it is signed by the Chief Executive Officer.
5. On the coming into force of each instrument all previous delegations to the Chief Executive Officer and members of Council staff are revoked.
6. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.



## REPORT

### Background

It is not effective governance for Council decisions to only be made at Council meetings. Effective functioning of local government would not be possible if this were the case. Instead, many decision-making powers need to be allocated by formal delegation by Council to enable staff to effectively carry out their Council duties on a day to day basis.

Maddocks (Lawyers) provide Council with legal services which include provision of a Delegations and Authorisations Service. This service has been utilised to review the Instruments of Delegation to the Chief Executive Officer and to members of Council staff, which have been prepared using a best practice model.

### Discussion

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

Council Officers have reviewed advice from Maddocks regarding the Delegation from Council to the Chief Executive Officer and do not recommend any amendments to the existing delegation. The delegation is being presented for re-adoption to acknowledge that a review has been undertaken.

#### ***S6 Instrument of Delegation – Council to Members of Council Staff***

The following is a summary of key changes that have been made to the Delegation from Council to members of Council Staff since the last Maddocks update in July 2023:

- The execution of the S6 Instrument has been amended to enable Council's Chief Executive Officer (CEO) to sign the Instrument, where a resolution has been made by Council for the CEO to sign the Instrument.
- Regulations 25(a) and (b) of the Planning and Environment Regulations 2015 have been slightly amended by the Planning and Environment Amendment Regulations 2022, to refer to the public availability requirements.
- \* Reference to 'delivery of memorial' has been removed from s 181 of the Planning and Environment Act 1987

### Options

1. Resolve to adopt the Delegations as presented.



2. Request further clarification regarding the amendments.

## **Communications and Engagement**

### Community Engagement

The purpose of this report is to inform the community regarding the revised delegations.

### Collaboration

Officers have benchmarked with other Councils in the region.

## **Governance Context**

### Relevant Law

Local Government Act 2020

Borough of Queenscliffe General Local Law 2021

### Charter of Human Rights

This report has had consideration to, and complies with, the *Charter of Human Rights and Responsibilities Act 2006*.

### Gender Equality Act 2020

The *Gender Equality Act 2020* requires a Gender Impact Assessment to be undertaken when the Council develops or reviews any Council policy, program or service that has a direct and significant impact on the public. Has a Gender Impact Assessment been undertaken in respect of the matters in this Council Report?

No; the matters in this report are not a program, policy or service in its own right and therefore a Gender Impact Assessment is not required.

### Regional, State and National Plans and Policies

Not Applicable.

### Legal and Risk Implications

Under the *Local Government Act 2020*, delegations must be reviewed as a minimum within 12 months of a general election. Regular review of delegations reduces Council's risk by ensuring up-to-date legislative requirements are included in current delegations.



### Related Documents

Not applicable.

### Disclosure of Interest

No officer involved in the preparation of this report has any conflicts of interest.

## **Considerations**

### Environmental Sustainability

This report does not raise any sustainability implications.

### Financial and Resource Implications

There are no financial or resource implications associated with this report.

### Innovation and Continuous Improvement

Continuous improvement is achieved by regular review of delegations via the professional Maddocks delegations service, which is undertaken at the Borough at least annually, and in accordance with section 11 (7) of the *Local Government Act 2020*, within 12 months of a general election.

## **Implementation**

### Operational Impacts

There are no operational impacts associated with this report.

### Implementation Process

This project will be delivered by existing staff and resources.

## **Attachments**

1. S5 Borough of Queenscliffe Instrument of Delegation - Council to Chief Executive Officer [**14.5.1** - 4 pages]
2. S6 Borough of Queenscliffe Instrument of Delegation - Council to Members of Staff [**14.5.2** - 70 pages]