

'S5' DELEGATION TO CEO FROM COUNCIL

INSTRUMENT OF DELEGATION

In exercise of the power conferred by section 11 of the *Local Government Act 2020* (**the Act**) and any other Acts conferring a power of delegation on it, the Monash City 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 31 October 2023;
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
MONASH CITY COUNCIL
was hereunto affixed this First
day of November 2023
in the presence of:

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(E)

[Handwritten signature]
.....

.....
Danny Wain CPA
Senior Officer
City of Monash
293 Springvale Road
GLEN WAVERLEY VIC 3150



SCHEDULE

Part A.

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

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. appointing an Acting Chief Executive Officer for a period exceeding 28-days;
 - 1.2. electing a Mayor or Deputy Mayor;
 - 1.3. granting a reasonable request for leave under s 35 of the Act;
 - 1.4. making a decision in relation to the employment, dismissal or removal of the Chief Executive Officer;
 - 1.5. approving or amending the Council Plan;
 - 1.6. adopting or amending any policy that Council is required to adopt under the Act;
 - 1.7. adopting or amending the Governance Rules;
 - 1.8. appointing the chair or the members to a delegated committee;
 - 1.9. making, amending or revoking a local law;
 - 1.10. approving the Budget or Revised Budget;
 - 1.11. approving the borrowing of money;
 - 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, act 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, taking of the action or doing of the act or thing would be likely to involve a decision which is inconsistent with a
 - 4.1 policy; or
 - 4.2 strategyadopted by Council.
5. 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 section 11(2)(a)-(n) (inclusive) of the Act or otherwise; or
6. 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.

Part B

The delegate is delegated the following financial delegations:

7. Financial Delegation:

The Chief Executive Officer's financial delegation is up to \$450,000 (including GST). The financial delegation does not apply to:

- The payment of the annual insurance premiums;
- Loan repayments at maturity of Council; or
- The approval of an energy contract up to the value of \$1,000,000 (including GST).

8. For Council approved contracts:

- 8.1 The Chief Executive Officer can approve a contract variation if the variation does not exceed the remaining Council approved contingency, even if it exceeds the Chief Executive Officer's financial delegation.
- 8.2 Where a contract variation exceeds the remaining Council approved contingency, the Chief Executive Officer may approve a cumulative variation if the revised contract value does not exceed 10 percent, to a maximum of \$100,000 of the Council approved contract value inclusive of any Council approved contingency.

8.3 In exceptional circumstances (where the health and safety of people, the integrity of assets is compromised, or there is a risk of financial exposure due to a delay in services or works unless immediate action is taken), the Chief Executive Officer may approve any contract variation subject to Councillors being provided with 48 hours' prior notice and no more than two Councillors object.

9. For Officer approved contracts:

9.1 The Chief Executive Officer may approve variations if the revised contract value does not exceed the Chief Executive Officer's financial delegation.

9.2 The Chief Executive Officer may approve variations if the revised contract value does not exceed:

- a. The remaining approved contingency; **and**
- b. The Chief Executive Officers financial delegation.

9.3 Where a contract variation exceeds the remaining approved contingency, the Chief Executive Officer may approve a variation if the revised contract value does not exceed 20% of the original contract value inclusive of any approved contingency amount.

9.4 In exceptional circumstances (where the health and safety of people, the integrity of assets is compromised, or there is a risk of financial exposure due to a delay in services or works unless immediate action is taken), the Chief Executive Officer may approve any contract variation subject to Councillors being provided with 48 hours' prior notice and no more than two Councillors object.

10. For a Schedule of Rates contract:

10.1 The Chief Executive Officer may approve a cumulative volume change to an Officer or Council approved Schedule of Rates contract provided that:

- a. The volume change does not significantly change the contract;
- b. The cumulative change does not exceed the approved budget; **and**
- c. The cumulative change does not exceed \$450,000.