

S7 Instrument of Sub-Delegation by CEO



Instrument of Sub-Delegation

by

The Chief Executive Officer

Community Health

Instrument of Sub-Delegation

By this Instrument of Sub-Delegation, in exercise of the power conferred by s 47(1) of the *Local Government Act 2020*, I, as Chief Executive Officer of Maroondah City Council –

1. delegate each duty and/or function and/or power respectively described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position respectively described in column 3 of the Schedule;
2. record that on coming into force of this Instrument of Sub-Delegation, all previous sub-delegations made by the Chief Executive Officer in relation to the Food Act 1984, are revoked;
3. declare that this Instrument of Sub-Delegation -
 - 3.1 comes into force immediately upon its execution;
 - 3.2 remains in force until varied or revoked;
 - 3.3 is subject to any conditions and limitations set out in paragraph 4, and in the Schedule; and
 - 3.4 must be read in accordance with any guidelines or policies which Council from time to time adopts; and
4. declare that the delegate must not determine the issue, take the action or do the act or thing if:
 - 4.1 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; or
 - 4.2 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
 - (a) policy; or
 - (b) strategyadopted by Council; or
 - 4.3 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 ss 11(2)(a) – (n) and 47(2) (inclusive) of the Act or otherwise.

This Instrument of Sub-Delegation is dated 1 November 2021 and is made by the Chief Executive Officer under authority of an instrument of delegation authorised by Resolution of Council made on 18 October 2021.

SIGNED by Stephen Kozlowski
CHIEF EXECUTIVE OFFICER
Maroondah City Council



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Dated: 1 November 2021

in the presence of:



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Witness

SCHEDULE

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FOOD ACT 1984			
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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 7D(3)	Duty to comply with a declaration made by the Secretary under s 7D(1)	Coordinator Community Health	
s 7E(6)	Duty to publish a copy of a direction given by the Minister under s 7E(1) in the annual report	Coordinator Community Health	
s 19(4)(b)	Duty to notify the Department of the making of the order	Coordinator Community Health	If s 19(1) applies
s 19(4)(c)	Duty to notify the registration authority of the making of the order and any appeal and the outcome of the appeal	Coordinator Community Health	If s 19(1) applies and if Council is not the registration authority
s 19A(4)(b)	Function of receiving notice from authorised officer	Coordinator Community Health	Where Council is the registration authority
s 19BA(3)	Duty to give notice of the variation or revocation of the order to the general public in the same manner as the original notice	Coordinator Community Health	Must be done by the same person as gave the original notice
s 19EA(3)	Function of receiving a copy of any significant revision made to the food safety program	Coordinator Community Health	Where Council is the registration authority
s 19H(5)(a) & (5)(b)	Duty to take into account (a) the food safety performance of the food business; and (b) any guidelines issued by the Secretary in determining the frequency and intervals of the assessments and audits	Coordinator Community Health	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 19I	Duty to conduct a food safety assessment as required under s 19H	Coordinator Community Health Environmental Health Officer	Subject to s 19J Where Council is the registration authority
s 19IA(2)	Duty to give written notice to proprietor if food safety requirements or s 19DC(2) have not been complied with unless s 19IA(3) applies	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 19N	Function of receiving information from a food safety auditor	Coordinator Community Health	Where Council is the registration authority
s 19U(4)	Duty to ensure that information relating to costs of a food safety audit are available for inspection by the public	Coordinator Community Health	
s 19UA(4)	Duty to consider proprietor's history of compliance in deciding whether to charge the fee	Coordinator Community Health Environmental Health Officer	
s 19UA(5)	Duty to ensure that the method of determining a fee under s 19UA(3)(a) and the considerations that apply under s 19UA(4) are available for inspection by the public	Coordinator Community Health	
s 20(1C)	Duty to ensure authorised officers are suitably qualified or trained	Coordinator Community Health	

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS	
s 20(2)	Power to limit or impose conditions on the authority granted to an authorised officer	Director Development & Amenity Manager Health, Local Laws & Emergency Management Coordinator Community Health		
s 26(5)	Duty to destroy or dispose of article	Coordinator Community Health Environmental Health Officer		
s 32(1)	Duty to submit samples of food for analysis	Coordinator Community Health Environmental Health Officer		
s 32(3)	Function of receiving report by analyst	Coordinator Community Health Environmental Health Officer		
s 35A(2)	Function of receiving notice of operation from the proprietor of a food premises	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority	

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 37	Function of receiving application, information and documents required under s 36 from the proprietor of a food business	Coordinator Community Health Environmental Health Officer	
s 38(3)	Duty to consult with the Secretary about the proposed exemption under s 38(2)	Coordinator Community Health Environmental Health Officer	
s 38AA(2)	Function of being notified of operation	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 38AA(4)	Duty to determine whether the food premises are exempt from the requirement of registration	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 38A(5) & (6)	Function of receiving a food safety audit certificate from a proprietor	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 38B(1)(c)	Duty to inspect premises	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 38E(1)(c)	Function of assessing the requirement for a food safety program	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 38E(3)(a)	Function of receiving certificates	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 38F(3)(a)	Duty to note the change to the classification of the food premises on the certificate of registration	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 39(2)	Duty to inspect within 12 months before renewal of registration	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 39(3)	Duty to inspect within 3 months before renewal of registration if circumstances in s 39(3)(a)-(d) apply	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 39A(6)	Duty to comply with direction of Secretary.	Coordinator Community Health Environmental Health Officer	
s 40(1)	Duty to issue a certificate of registration in the prescribed form	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 40D(2)	Duty to specify how long a suspension is to last under s 40D(1)	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 40E(4)	Duty to comply with direction of Secretary	Coordinator Community Health Environmental Health Officer	

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 43(1) and (2)	Duty to maintain records of the prescribed particulars and orders in force under Part III	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 43(3)	Duty to make available information held in records, free of charge, on request	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 43I	Function of receiving a statement of trade of a proprietor of a food business	Coordinator Community Health Environmental Health Officer	
s45AA	Power to act in proceedings against the Crown	Coordinator Community Health Environmental Health Officer	Power of the responsible agency
s 45AC	Power to bring proceedings for an offence under the Act	Coordinator Community Health Environmental Health Officer	

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 53G(1)	Duty to provide information in s 53G(1) to the Secretary as soon as practicable after a person is convicted by a court for an offence under this Act	Coordinator Community Health Environmental Health Officer	Where Council is the 'relevant Council' under s 53G(6)
s 53G(2)	Duty to advise the Secretary that a person has not appealed a conviction within the time allowed	Coordinator Community Health Environmental Health Officer	Where Council is the relevant Council under s 53G(6)
s 53G(3)	Duty to inform the Secretary of the fact that an appeal or application for leave is lodged against the conviction and of other matters in this subs	Coordinator Community Health Environmental Health Officer	Where Council is the relevant Council under s 53G(6)
s 53G(4)	Duty to inform the Secretary of the outcome of the appeal or application	Coordinator Community Health Environmental Health Officer	Where Council is the relevant Council under s 53G(6)
s 58(1)	Duty to notify the Victorian Commission for Gambling and Liquor Regulation of Liquor Licensing where an order is made under s 19 of the Act and a licence/permit under the <i>Liquor Control Reform Act 1998</i> is in force	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 58(2)	Duty to notify the Victorian Commission for Gambling and Liquor Regulation of Liquor Licensing when a holder of a permit/licence under the <i>Liquor Control Reform Act 1998</i> is found guilty or pleads guilty and in respect of which no conviction is recorded	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority
s 58B(1)	Power to take action in relation to a thing done or omitted at the food premises	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority for the temporary or mobile food premises
s 58B(2)	Power to take into account results of inspection, assessment, audit or other action taken by another registration authority in relation to temporary or mobile food premises	Coordinator Community Health Environmental Health Officer	Where Council is the registration authority for the temporary or mobile food premises
s 59C(2)	Power to take actions necessary to ensure compliance with direction under Part III or Part VII	Coordinator Community Health Environmental Health Officer	
s 59C(7)(b)	Power to recover costs incurred under s 59C(2) or (3)	Coordinator Community Health Environmental Health Officer	

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 71(a)	Power to revoke or suspend the registration of the food premises under Part IIIB or s 40D in certain circumstances	Coordinator Community Health Environmental Health Officer	

