

S7 Instrument of Sub-Delegation by CEO



Instrument of Sub-Delegation

by

The Chief Executive Officer

Risk & Integrity

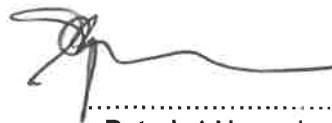
Instrument of Sub-Delegation

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 Freedom of Information Act 1982, the Health Records Act 2001, the Privacy & Data Protection Act 2014, the Protected Disclosure Act 2012 and the Public Records Act 1973, 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



.....
Dated: 1 November 2021

in the presence of:



.....
Witness

SCHEDULE

DEFINITIONS

A reference in the schedule to -

Corporate Management Team - means	• Chief Executive Officer • Director Corporate Services • Director Development & Amenity • Director Operations, Assets & Leisure • Director Strategy & Community
Freedom of Information Officer – means	• Manager Finance & Governance • Coordinator Risk, Information & Integrity • Risk and Integrity Officer
Managers - means	• Manager Assets • Manager Business & Development • Manager Communications & Engagement • Manager Community Services • Manager Engineering & Building Services • Manager Finance & Governance • Manager Health, Local Laws & Emergency Management • Manager Information Technology • Manager Integrated Planning • Manager Leisure • Manager Operations • Manager Revenue, Property & Customer Service • Manager Statutory Planning • Manager Workplace, People & Culture
Principal Conduct Officer – means	• Manager Finance & Governance
Privacy Officer – means	• Manager Finance & Governance • Coordinator Risk, Information & Integrity • Risk and Integrity Officer
Protected Disclosure Coordinator – means	• Manager Finance & Governance
Protected Disclosure Officer - means	• Director Corporate Services • Director Development & Amenity • Director Operations, Assets & Leisure • Director Strategy & Community • Manager Workplace, People & Culture

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FREEDOM OF INFORMATION ACT 1982			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 7	Duty to publish information	Freedom of Information Officer	
s 49D(3)	Power to request a copy of the application from the Information Commissioner	Freedom of Information Officer	
s 49G(3)	Function of receiving notice from the Information Commissioner	Freedom of Information Officer	
s 49I	Duty to assist the Information Commissioner to undertake a review	Freedom of Information Officer	
s 49K	Function of consulting with the Information Commissioner	Freedom of Information Officer	
s 49KA(2)(a)	Function of processing or identifying a reasonable sample of the documents upon notice from the Information Commissioner	Freedom of Information Officer	If the Information Commissioner reasonably believes that an agency or Minister has failed to undertake an adequate search for documents that relate to a decision that is the subject of a review under Division 1
s 49KA(2)(b)	Function to undertake a further search, or to cause a further search to be undertaken, for documents in the possession, custody or control of the agency or Minister, upon notice from the Information Commissioner	Freedom of Information Officer	If the Information Commissioner reasonably believes that an agency or Minister has failed to undertake an adequate search for documents that relate to a decision that is the subject of a review under Division 1

FREEDOM OF INFORMATION ACT 1982			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 49KA(3)	Duty to comply with requests under s 49KA(2) within the reasonable time stated in the Information Commissioner's notice, being not less than 10 business days	Freedom of Information Officer	If the Information Commissioner reasonably believes that an agency or Minister has failed to undertake an adequate search for documents that relate to a decision that is the subject of a review under Division 1
s 49KA(4)	Power to apply for extension	Freedom of Information Officer	
s 49KA(7)	Duty to notify the Information Commissioner within 3 business days after the end of the period referred to in s 49KA(2) or (3) of the information contained in s 49KA(7)(a)-(b)	Freedom of Information Officer	If the Information Commissioner reasonably believes that an agency or Minister has failed to undertake an adequate search for documents that relate to a decision that is the subject of a review under Division 1
s 49KA(8)	Function to have the matter referred from the Information Commissioner in accordance with s 49L	Freedom of Information Officer	If the Information Commissioner reasonably believes that an agency or Minister has failed to undertake an adequate search for documents that relate to a decision that is the subject of a review under Division 1
s 49L(1A)	Duty to make a fresh decision where a matter is referred back to Council by the Information Commissioner	Freedom of Information Officer	Decision must be made within 28 days of referral, unless other time period agreed under s 49L(2)
s 49L(2)	Power to agree with the Information Commissioner to another time period for making the fresh decision under s 49L(1)	Freedom of Information Officer	

FREEDOM OF INFORMATION ACT 1982			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 49L(4)	Duty to notify the Information Commissioner that a fresh decision has been made or has not been made	Freedom of Information Officer	
s 49L(5)	Duty to revoke the earlier decision where a fresh decision has been made and to inform the applicant of the requirements of s 49L(6) and the effect of s 49(7)	Freedom of Information Officer	
s 49M(1)	Power to exercise a choice to reconsider the subject matter of an application for review and make a fresh decision	Freedom of Information Officer	Must advise the Information Commissioner and the applicant in writing Decision must be made within 28 days of referral, unless other time period agreed under s 49M(2) May make a fresh decision only once during a review under this part s 49M(8)
s 49M(2)	Power to agree with Information Commissioner to another time period for making a fresh decision	Freedom of Information Officer	
s 49M(4)	Duty to notify the Information Commissioner in writing of a whether a fresh decision has or has not been made	Freedom of Information Officer	
s 49M(5)	Duty to revoke the earlier decision where a fresh decision has been made and to inform the applicant of the requirements of s 49M(6) and the effect of s 49M(7)	Freedom of Information Officer	
s 49N	Function of entering into an agreement in relation to a decision that is the subject of a review	Freedom of Information Officer	

FREEDOM OF INFORMATION ACT 1982			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 50(3D)	Power to apply to the Tribunal for review of a decision of the Information Commissioner under s 49P	Freedom of Information Officer	
s 50(3F)	Duty to notify the Information Commissioner of an application for review under s 50(3D)	Freedom of Information Officer	
s 50(3FA)	Duty to notify the Information Commissioner of an application for review under s 50(1)(b), (c), (d) or (g)	Freedom of Information Officer	
s 53(6)	Power to make an application to the Tribunal for an extension of time	Freedom of Information Officer	
s 53A(1)	Duty to, if practicable, give written notice in accordance with s 53A(2)	Freedom of Information Officer	
s 61E	Duty to co-operate with Information Commissioner where a complaint relates to the agency	Freedom of Information Officer	
s 61G	Function of consulting with the Information Commissioner	Freedom of Information Officer	
s 61GA(1)(a)	Function of processing or identifying a reasonable sample of the documents upon notice from the Information Commissioner	Freedom of Information Officer	Where the Information Commissioner believes that an agency, principal officer or Minister has failed to undertake an adequate search for documents that relate to a decision that is the subject of the complaint under s 25A(1) or s 25A(5)

FREEDOM OF INFORMATION ACT 1982			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 61GA(1)(b)	Function to undertake a further search, or to cause a further search to be undertaken, for documents in the possession, custody or control of the agency or Minister, upon notice from the Information Commissioner	Freedom of Information Officer	Where the Information Commissioner believes that an agency, principal officer or Minister has failed to undertake an adequate search for documents that relate to a decision
s 61GA(2)	Duty to comply with requests under s 61GA(1) within the reasonable time stated in Information Commissioner's notice, being not less than 10 business days	Freedom of Information Officer	
s 61GA(3)	Power to apply for extension	Freedom of Information Officer	
s 61H	Power to reach an agreement with a complainant	Freedom of Information Officer	
s 61I(2)	Power to make submissions to the Information Commissioner in relation to a complaint	Freedom of Information Officer	
s 61L(5)	Power to comment on, and respond to, a draft recommendation	Freedom of Information Officer	
s 63BA(1)	Power to apply to the Supreme Court to determine whether the Information Commissioner, or the Public Access Deputy Commissioner, has jurisdiction to serve a notice to produce or attend	Freedom of Information Officer	
s 64B	Duty to provide the Information Commissioner any information referred to in s 64(2)	Freedom of Information Officer	

FREEDOM OF INFORMATION ACT 1982			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 65AB	Duty to notify the responsible Minister if Council seeks leave to appeal	Freedom of Information Officer	

HEALTH RECORDS ACT 2001			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 48	Function of receiving notice of complaint from the Health Complaints Commissioner	Privacy Officer	
s 51(1)	Function of receiving notice that Health Complaints Commissioner has declined to entertain a complaint	Privacy Officer	
s 51(3)	Function of receiving notice that Health Complaints Commissioner referred complaint	Privacy Officer	
s 52(2)	Function of receiving notice that Health Complaints Commissioner referred complaint to registration board	Privacy Officer	
s 53(2)	Function of receiving notice that Health Complaints Commissioner has dismissed a state complaint	Privacy Officer	
s 56(3)	Power to indicate wishes with respect to whether conciliation appropriate	Privacy Officer	
s 56(4)	Function of receiving notice of Health Complaints Commissioner's decision under s 56(1)	Privacy Officer	
s 57(4)	Function of receiving notice that Health Complaints Commissioner has dismissed the complaint after deciding conciliation is inappropriate	Privacy Officer	
s 61(1)(b)	Power to sign the record of a conciliation agreement	Privacy Officer	
s 61(2)	Power to lodge a copy of the record with the Tribunal	Privacy Officer	
s 63(1)	Function of receiving notice that conciliation has failed	Privacy Officer	

HEALTH RECORDS ACT 2001			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 63(8)	Function of receiving notice that Health Complaints Commissioner has dismissed the complaint following a failed conciliation	Privacy Officer	
s 63(10)	Function of receiving notice that Health Complaints Commissioner is to conduct an investigation of the complaint	Privacy Officer	
s 64(2)	Function of receiving notice of Health Complaints Commissioner's ruling	Privacy Officer	
s 64(7)	Duty to report on action taken following notice of a ruling requiring specified action	Privacy Officer	
s 65(1)	Power to require the Health Complaints Commissioner to refer the complaint to the Tribunal	Privacy Officer	
s 72	Power to apply to the Tribunal for review of a decision to serve a compliance notice	Privacy Officer	
s 73(1)	Power to apply to the Tribunal for an interim order	Privacy Officer	

PRIVACY AND DATA PROTECTION ACT 2014			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 20(1)	Duty to comply with Information Privacy Principles	Corporate Management Team Managers Coordinators Team Leaders Supervisors	
s 20(2)	Duty to comply with Information Privacy Principles when administering a public register	Privacy Officer Coordinator Building Services Team Leader Building Services Administration Team Leader Community Health Coordinator Local Laws	
s 22(1)	Power to seek approval of a code of practice or an amendment to a code of practice	Privacy Officer	
s 22(4)	Function of being consulted by the Information Commissioner in relation to a code of practice	Privacy Officer	
s 23(1)(b)	Function of giving written notice to the Information Commissioner that Council intends to be bound by the approved code of practice	Privacy Officer	

PRIVACY AND DATA PROTECTION ACT 2014			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 23(6)	Function of giving written notice to the Information Commissioner that Council no longer intends to be bound by the approved code of practice	Privacy Officer	
s 26(4)	Function of being consulted by the Information Commissioner in relation to a code of practice	Privacy Officer	
s 28(5)	Power to refuse a request by an authorised representative of an individual for access to personal information where it is reasonably believed that access may endanger the individual	Privacy Officer	
s 29(1)	Power to apply to the Information Commissioner for a public interest determination	Privacy Officer	
s 29(5)	Function of receiving draft determination	Privacy Officer	
s 29(6)	Function of attending a conference with the Information Commissioner	Privacy Officer	
s 30(1)	Power to request that application be for a temporary public interest determination	Privacy Officer	
s 34(1)	Power to apply to the Information Commissioner for approval of an amendment to a public interest determination	Privacy Officer	
s 34(2)	Function of receiving draft determination and attending a conference with the Information Commissioner and Power to make a submission	Privacy Officer	

PRIVACY AND DATA PROTECTION ACT 2014			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 35(2)	Function of receiving written notice from the Information Commissioner regarding revocation of a public interest determination	Privacy Officer	
s 36(1)	Duty to report to the Information Commissioner on an annual basis, or at any other agreed time	Privacy Officer	
s 38(1)	Power to apply to the Information Commissioner for a temporary public interest determination and power to make a submission	Privacy Officer	
s 41(2)	Function of receiving written notice from the Information Commissioner regarding revocation of temporary public interest determination	Privacy Officer	
s 47(1)	Power to apply for approval of an information usage arrangement	Privacy Officer	Where Council is a lead party to an information usage arrangement
s 47(2)	Duty to consult where required	Privacy Officer	Where Council is a party to an information usage arrangement
s 49(6)	Function of receiving notice of a refusal under s 49(4) or (5) from the Information Commissioner	Privacy Officer	Where Council is a lead party to an information usage arrangement
s 52(1)	Power to apply for approval of an amendment to an information usage arrangement	Privacy Officer	Where Council is a lead party to an information usage arrangement
s 52(2)	Duty to consult where required	Privacy Officer	Where Council is a party to an information usage arrangement
s 53(2)	Power to request revocation of an approval of an	Privacy Officer	Where Council is a party to an

PRIVACY AND DATA PROTECTION ACT 2014			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
	information usage arrangement		information usage arrangement
s 53(4)	Function of receiving notice from the Information Commissioner regarding ground for revocation of an information usage arrangement	Privacy Officer	Where Council is a party to an information usage arrangement
s 53(5)	Function of receiving notice from the Minister regarding revocation of an information usage arrangement	Privacy Officer	Where Council is a party to an information usage arrangement
s 54(1)	Duty to report to the Information Commissioner about the information usage arrangement	Privacy Officer	Where Council is a lead party to an information usage arrangement
s 56	Power to apply to VCAT for review of a decision to issue a certificate under s 55	Privacy Officer	Where Council's interests are affected by the decision
s 61	Function of receiving notice of complaint lodged with the Information Commissioner	Privacy Officer	
s 62(1)	Function of receiving notice that complaint is to be declined	Privacy Officer	
s 62(3)	Power to attend before the Information Commissioner and produce documents	Privacy Officer	
s 62(7)	Function of receiving notice of dismissal	Privacy Officer	
s 63(2)	Function of receiving notice of complaint being referred by the Information Commissioner	Privacy Officer	
s 64(2)	Function of receiving notice of complaint being dismissed by the Information Commissioner	Privacy Officer	

PRIVACY AND DATA PROTECTION ACT 2014			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 66(1)	Function of receiving notice that conciliation is inappropriate	Privacy Officer	
s 66(6)	Function of receiving notice of complaint being dismissed by the Information Commissioner	Privacy Officer	
s 67(3)	Power to attend conciliation and settle the matter	Privacy Officer	
s 68	Power to give information or produce a document	Privacy Officer	
s 69(1)	Power to prepare and sign conciliation agreement	Privacy Officer	
s 69(2)	Power to lodge certified conciliation agreement	Privacy Officer	
s 69(3)	Function of receiving copy of registered record	Privacy Officer	
s 71(1)	Function of receiving notice of unsuccessful conciliation	Privacy Officer	
s 71(6)	Function of receiving notice of complaint being dismissed by the Information Commissioner	Privacy Officer	
s 72	Power to apply to VCAT for an interim order	Privacy Officer	
s 77(1)	Power to administer/ implement order of VCAT	Privacy Officer	
s 77(3)	Function of receiving VCAT order relating to a public register administered by Council	Privacy Officer	
s 78(1)	Duty to comply with compliance notice served by the Information Commissioner	Privacy Officer	

PRIVACY AND DATA PROTECTION ACT 2014			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 78(3)	Power to apply for extension in relation to compliance notice	Privacy Officer	
s 79	Power to give information or produce a document	Privacy Officer	
s 83(1)	Power to apply to VCAT for review of a decision of the Information Commission under s 78(1)	Privacy Officer	

PUBLIC INTEREST DISCLOSURES ACT 2012			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 16(1)	Function of receiving a public interest disclosure that relates to the conduct of Council or of a member, officer or employee of Council	Protected Disclosure Coordinator Protected Disclosure Officers	Subject to s 16(2)
s 21(2)	Duty to, no later than 28 days after the disclosure is made, notify the disclosure to the appropriate entity for assessment under Part 3	Protected Disclosure Coordinator	Where Council is a receiving entity
s 23	Power to provide information in respect of the disclosure	Protected Disclosure Coordinator	
s 24(2)	Duty to advise the person who made the disclosure that the disclosure has been notified to the IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee (as the case may be) for assessment	Protected Disclosure Coordinator	Where Council is a receiving entity
s 24(3)	Duty to advise the person who made the disclosure of the matters in s 24(3)(a) – (c)	Protected Disclosure Coordinator	Where Council is a receiving entity
s 26(6)	Function of being consulted by IBAC	Protected Disclosure Coordinator	Where Council is a notifying entity
s 27	Function of receiving notification of IBAC's determination	Protected Disclosure Coordinator	Where Council is a notifying entity
s 54(1)	Power to disclose information regarding an assessable disclosure or identity of person who has made an assessable disclosure, only in the circumstances listed in s 54(2)	Protected Disclosure Coordinator	

PUBLIC INTEREST DISCLOSURES ACT 2012			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 58(1)	Duty to establish procedures to facilitate the making of disclosures and the handling of those disclosures	Protected Disclosure Coordinator	
s 58(5)	Duty to establish procedures for the protection of persons from detrimental action by the Council, Council officers or Councillors	Protected Disclosure Coordinator	
s 59(4)	Duty to make procedures established under s 58 available to the public and to staff and Councillors	Protected Disclosure Coordinator	
s 61(1)	Function of receiving recommendations from IBAC	Protected Disclosure Coordinator	
s 70(1)	Duty to include certain items in annual report	Protected Disclosure Coordinator	
sch 1 cl 25(2)	Duty to complete the investigation of the disclosure under the <i>Whistleblowers Protection Act 2001</i> and take action listed in sch 1 cl 25(2)(b)	Protected Disclosure Coordinator	Note: applies Where an investigation has been started but not completed under the <i>Whistleblowers Protection Act 2001</i>
sch 1 cl 29(2)	Duty to notify IBAC within 28 days of a disclosure made after commencement of this Act	Protected Disclosure Coordinator	

PUBLIC RECORDS ACT 1973			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 8A	Duty to cause records to be transferred to custody of Public Records Office	Coordinator Risk, Information & Integrity Team Leader Information Management	

