

S6 Instrument of Delegation - Members of Staff



Instrument of Delegation

to

Members of Council Staff

(Community Health)

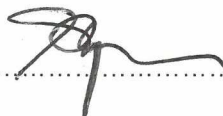
Instrument of Delegation

In exercise of the powers conferred by the legislation referred to in the attached Schedule, the Council:

1. delegates each duty and/or function and/or power 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 described opposite each such duty and/or function and/or power in column 3 of the Schedule;
2. declares that:
 - 2.1 this Instrument of Delegation is authorised by a resolution of Council passed on **26 September 2022**; and
 - 2.2 the delegation:
 - 2.2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 2.2.2 remains in force until varied or revoked;
 - 2.2.3 is subject to any conditions and limitations set out in sub-paragraph 2.3, and the Schedule; and
 - 2.2.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
 - 2.3 the delegate must not determine the issue, take the action or do the act or thing:
 - 2.3.1 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;
 - 2.3.2 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;
 - 2.3.3 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; or
 - 2.3.4 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 or delegated committee.

THE COMMON SEAL of **MAROONDAH CITY COUNCIL** was affixed hereto on 26 September 2022, in accordance with resolution of Council made on 26 September 2022, in the presence of

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Councillor

Chief Executive Officer

SCHEDULE

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FOOD ACT 1984			
Column 1	Column 2	Column 3	Column 4
PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 19(2)(a)	Power to direct by written order that the food premises be put into a clean and sanitary condition	Coordinator Community Health Team Leader Environmental Health	If s 19(1) applies
s 19(2)(b)	Power to direct by written order that specified steps be taken to ensure that food prepared, sold or handled is safe and suitable	Coordinator Community Health Team Leader Environmental Health	If s 19(1) applies
s 19(3)	Power to direct by written order that the food premises not be kept or used for the sale, or handling for sale, of any food, or for the preparation of any food, or for any other specified purpose, or for the use of any specified equipment or a specified process	Coordinator Community Health Team Leader Environmental Health	If s 19(1) applies Only in relation to temporary food premises or mobile food premises
s 19(4)(a)	Power to direct that an order made under s 19(3)(a) or (b), (i) be affixed to a conspicuous part of the premises, and (ii) inform the public by notice in a published newspaper or otherwise	Coordinator Community Health Team Leader Environmental Health	If s 19(1) applies
s 19(6)(a)	Duty to revoke any order under s 19 if satisfied that an order has been complied with	Coordinator Community Health Team Leader Environmental Health	If s 19(1) applies

FOOD ACT 1984			
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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 19(6)(b)	Duty to give written notice of revocation under s 19(6)(a) if satisfied that an order has been complied with	Coordinator Community Health Team Leader Environmental Health	If s 19(1) applies
s 19AA(2)	Power to direct, by written order, that a person must take any of the actions described in (a)-(c).	Coordinator Community Health Team Leader Environmental Health	Where Council is the registration authority
s 19AA(4)(c)	Power to direct, in an order made under s 19AA(2) or a subsequent written order, that a person must ensure that any food or class of food is not removed from the premises	Coordinator Community Health Team Leader Environmental Health	Note: the power to direct the matters under s 19AA(4)(a) and (b) not capable of delegation and so such directions must be made by a Council resolution
s 19AA(7)	Duty to revoke order issued under s 19AA and give written notice of revocation, if satisfied that that order has been complied with	Coordinator Community Health Team Leader Environmental Health	Where Council is the registration authority
s 19CB(4)(b)	Power to request copy of records	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 19E(1)(d)	Power to request a copy of the food safety program	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 19EA(3)	Function of receiving copy of revised food safety program	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 19GB	Power to request proprietor to provide written details of the name, qualification or experience of the current food safety supervisor	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 19IA(1)	Power to form opinion that the food safety requirements or program are non-compliant	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 19IA(2)	Duty to give written notice to the proprietor of the premises	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority Note: Not required if Council has taken other appropriate action in relation to deficiencies (see s 19IA(3))
s 19M(4)(a) & (5)	Power to conduct a food safety audit and take actions where deficiencies are identified	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 19N(2)	Function of receiving notice from the auditor	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 19NA(1)	Power to request food safety audit reports	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 19U(3)	Power to waive and vary the costs of a food safety audit if there are special circumstances	Coordinator Community Health	

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 19UA	Power to charge fees for conducting a food safety assessment or inspection	Coordinator Community Health	Except for an assessment required by a declaration under s 19C or an inspection under ss 38B(1)(c) or 39
s 19W	Power to direct a proprietor of a food premises to comply with any requirement under Part IIIB	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 19W(3)(a)	Power to direct a proprietor of a food premises to have staff at the premises undertake training or instruction	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 19W(3)(b)	Power to direct a proprietor of a food premises to have details of any staff training incorporated into the minimum records required to be kept or food safety program of the premises	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
---	Power to register or renew the registration of a food premises	Coordinator Community Health	Where Council is the registration authority Refusal to grant or renew the registration of a food premises must be ratified by Council or the CEO (see s 58A(2))

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 36A	Power to accept an application for registration or notification using online portal	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 36B	Duty to pay the charge for use of online portal	Coordinator Community Health	Where Council is the registration authority
s 38AA(5)	Power to (a) request further information; or (b) advise the proprietor that the premises must be registered if the premises are not exempt	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 38AB(4)	Power to fix a fee for the receipt of a notification under s 38AA in accordance with a declaration under s 38AB(1)	Coordinator Community Health	Where Council is the registration authority
s 38A(4)	Power to request a copy of a completed food safety program template	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 38B(1)(a)	Duty to assess the application and determine which class of food premises under s 19C the food premises belongs	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 38B(1)(b)	Duty to ensure proprietor has complied with requirements of s 38A	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 38B(2)	Duty to be satisfied of the matters in s 38B(2)(a)-(b)	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 38D(1)	Duty to ensure compliance with the applicable provisions of s 38C and inspect the premises if required by s 39	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 38D(2)	Duty to be satisfied of the matters in s 38D(2)(a)-(d)	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 38D(3)	Power to request copies of any audit reports	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 38E(2)	Power to register the food premises on a conditional basis	Coordinator Community Health	Where Council is the registration authority; not exceeding the prescribed time limit defined under s 38E(5)
s 38E(4)	Duty to register the food premises when conditions are satisfied	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 38F(3)(b)	Power to require proprietor to comply with requirements of this Act	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 38G(1)	Power to require notification of change of the food safety program type used for the food premises	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 38G(2)	Function of receiving notice from proprietor if there is a change of the food safety program type used for the food premises	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 38G(4)	Power to require the proprietor of the food premises to comply with any requirement of the Act	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 39(2)	Duty to carry out an inspection of the premises during the period of registration before the registration of the food premises is renewed	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 39A	Power to register or renew the registration of a food premises despite minor defects	Coordinator Community Health	Where Council is the registration authority Only if satisfied of matters in s 39A(2)(a)-(c)
s 39A(6)	Duty to comply with a direction of the Secretary	Coordinator Community Health	
s 40(1)	Duty to give the person in whose name the premises is to be registered a certificate of registration	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 40(2)	Power to incorporate the certificate of registration in one document with any certificate of registration under Part 6 of the <i>Public Health and Wellbeing Act 2008</i>	Coordinator Community Health	
s 40C(2)	Power to grant or renew the registration of food premises for a period of less than 1 year	Coordinator Community Health	Where Council is the registration authority
s 40D(1)	Power to suspend or revoke the registration of food premises	Coordinator Community Health	Where Council is the registration authority

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 40E	Duty to comply with direction of the Secretary	Coordinator Community Health	
s 40F	Power to cancel registration of food premises	Coordinator Community Health	Where Council is the registration authority
s 43	Duty to maintain records of registration	Coordinator Community Health	Where Council is the registration authority
s 43F(6)	Duty to be satisfied that registration requirements under Division 3 have been met prior to registering, transferring or renewing registration of a component of a food business	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority
s 43F(7)	Power to register the components of the food business that meet requirements in Division 3 and power to refuse to register the components that do not meet the requirements	Coordinator Community Health	Where Council is the registration authority
s 45AC	Power to bring proceedings	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	

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PROVISION	THING DELEGATED	DELEGATE	CONDITIONS & LIMITATIONS
s 46(5)	Power to institute proceedings against another person where the offence was due to an act or default by that other person and where the first person charged could successfully defend a prosecution, without proceedings first being instituted against the person first charged	Coordinator Community Health Team Leader Environmental Health Environmental Health Officer	Where Council is the registration authority

