

## 4.10 Urgent Business - S6A Instrument of Delegation under the Planning and Environment Act 1987

<b>Council Plan</b>	Strategic Direction - High Performing Council
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<b>Division:</b>	Strategy and Effectiveness
<b>Department:</b>	Integrity and Governance
<b>Attachments:</b>	1. S6A Instrument of Delegation [4.10.1 - 8 pages]

### Purpose

1. The purpose of this report is to present the s6A Instrument of Delegation to Council for adoption. This newly created instrument is presented due to recent changes to the *Planning and Environment Act 1987*, and is presented as urgent business as officers may need to exercise the relevant powers, duties and/or functions prior to the next scheduled Council meeting in late February 2026.

### Recommendation

That Council in the exercise of the powers conferred by the *Planning and Environment Act 1987*, and in accordance with section 188 of that Act:

1. Delegates to the members of Council staff holding, acting in, or performing the duties of the officers or positions referred to in the s6A Instrument of Delegation (**Attachment 1**), the powers, duties and functions set out in the Instrument, subject to the conditions and limitations specified in that Instrument;
2. Authorises the Chief Executive Officer to execute the s6A Instrument of Delegation;
3. Approves the s6A Instrument of Delegation to come into force immediately upon execution.

### Outcome

2. If Council accepts this recommendation, the adoption of the Instrument of Delegation (the Instrument) will ensure that Council continues to operate effectively by delegating certain powers, duties and functions to enable staff to perform applicable parts of their roles.

### Key Considerations

3. Council's Instruments of Delegation are updated periodically to reflect changes in legislation, as well as changes to roles and organisational structure.
4. When relevant, managers of the affected areas are consulted or advised prior to the Instrument being presented to Council.

5. The s6A Instrument of Delegation has been designed to reflect recent amendments to the *Planning and Environment Act 1987*. The relevant powers, duties and functions are set out in the Instrument (**Attachment 1**).
6. This report is consistent with the requirements in Council's Governance Rules for 'Urgent Business'. Namely, the matter to be considered must have arisen after the distribution of the agenda, and the matter cannot safely or conveniently be deferred to the next Council meeting. Council subscribes to an external delegations service, and the s6A Instrument of Delegation was provided to Council through this service on 9 December 2025. Further, officers may need to exercise the relevant powers, duties and/or functions prior to the next scheduled Council meeting on 27 February 2026.

### **Background**

7. Council's delegations are derived from the Maddocks Lawyers Instruments of Delegation package and the templates have been thoroughly vetted and reviewed by local government lawyers.

### **Options**

8. **Alternative Option 1** – That Council does not adopt the Instrument of Delegation as attached.

This option is not recommended by officers as the adoption of the instrument will facilitate effective and efficient Council operations.

### **Council Plan (including Health and Wellbeing Plan) Statement**

Strategic Direction - High Performing Council

### **Financial Considerations**

9. There are no financial considerations associated with adopting the attached Instrument.

### **Community Engagement**

10. Community engagement is not a requirement of this report and has not been undertaken.

### **Statutory / Legal / Policy Considerations**

11. In accordance with section 188 of the *Planning and Environment Act 1987*, Council may delegate certain powers, duties and functions under that Act.

### **Risk Rating**

12. The risk rating is low and can be managed at department level.

**Sustainability considerations**

13. There are no sustainability considerations associated with this report.

**Conflict of Interest**

14. No officer declared a conflict of interest under the *Local Government Act 2020* in the preparation of this report.

**Confidentiality**

15. This report and attachments contain no confidential information under section 66(2) of the *Local Government Act 2020*.

**Transparency**

**Audit and Risk Committee involvement**

16. This report is not within the scope of the Audit and Risk Committee.

**Councillor Briefings**

17. This item was not discussed in Councillor briefings.

Councillor attendance at briefings is not a statutory requirement. Councillors are able to access and request information through a number of mechanisms to understand matters being presented at a Council Meeting.



## Surf Coast Shire Council

### Instrument Of Delegation

#### S6a Instrument of Delegation – Council to Members of Council Staff

## S6A Instrument of Delegation – Council to Members of Council Staff

### Instrument of Delegation

In exercise of the powers conferred by the *Planning and Environment Act 1987* (Act), the legislation referred to in the attached Schedule, and in accordance with section 188 of the Act, 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. records that references in the Schedule are as follows:

Abbreviation	Position
AOPD	Administration Officer Planning and Development
AOPlan	Administrative Officer
CSP	Coordinator Statutory Planning
CStrP	Coordinator Strategic Planning
GMPME	General Manager Placemaking and Environment
MIP	Manager Integrated Planning
MPCo	Manager Planning and Compliance
ND	Not Delegated
PPO	Para Planning Officer
PAO	Planning Administration Officer
PO	Planning Officer
PStaP	Principal Statutory Planner
SPP	Senior Statutory Planner
SP	Statutory Planner
TLPPS	Team Leader Para Planning and Subdivisions
VSP	VicSmart Planner

3. declares that:

3.1. this Instrument of Delegation is authorised by a resolution of Council passed on 9 December 2025, and

3.2. the delegation:

3.2.1. comes into force immediately upon signing of this Instrument of Delegation;

3.2.2. remains in force until varied or revoked;

3.2.3. is subject to any conditions and limitations set out in sub-paragraph 3.3, and the Schedule; and

3.2.4. must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and

3.3. the delegate must not determine the issue, take the action or do the act or thing:

3.3.1 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;

3.3.2 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) strategy adopted by Council;

3.3.3 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

3.3.4 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.

Executed by the Chief Executive Officer on behalf of the Surf Coast Shire Council pursuant to the Council resolution dated 9 December 2025.

.....  
*Chief Executive Officer*

.....  
Dated

## S6A Instrument of Delegation under the Planning and Environment Act 1987

Planning and Environment Act 2017			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
16B	<p>Duty (upon receiving a request to prepare an amendment to the planning scheme) to decide:</p> <ul style="list-style-type: none"> <li>- to apply to the Minister for authorisation to prepare the amendment, with or without changes, under section 16F, or</li> <li>- to refuse the request.</li> </ul> <p>Note: see also sections 16A, 16D, 16E and 16K.</p>	MIP, GMPME, MPCo	
16C(1)	<p>Duty to give written notice of its decision under section 16B to the person who made the request within 10 business days of making the decision.</p> <p>Note: The notice must contain prescribed information, and reasons if it is a refusal.</p>	CStrP, MIP, GMPME	
16C(4)	<p>Duty to give a copy of the request and the notice under subsection 16C(1) to the Minister.</p>	CStrP, MIP, GMPME	

Planning and Environment Act 2017			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
16F	Power to apply to the Minister for authorisation to prepare an amendment to the State standard provisions or the local provisions of a planning scheme in force in the municipal district.  Note: see also sections 16G and 16K.	CStrP, MIP, GMPME	
16F	Power to prepare an amendment to the planning scheme where the Minister has authorised Council to do so under section 16F	CStrP, MIP, GMPME	
16H	Power to prepare an amendment specified in an application without the Minister's authorisation if no response received after 10 business days  Note: see also section 16K.	CStrP, MIP, GMPME	Does not apply in relation to an application for the preparation of an amendment that will apply to land to which a Suburban Rail Loop planning area declaration applies.
16I	Power to apply to the Minister for authorisation to prepare an amendment to any part of the State standard provisions and local provisions of a planning scheme applying to an area adjoining its municipal district.	CStrP, MIP, GMPME	
16I	Power to prepare amendment to the planning scheme	CStrP, MIP,	



Planning and Environment Act 2017			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	<p>applying to an area adjoining Council's municipal district where the Minister has authorised Council to do so under section 16I.</p> <p>Note: see also sections 16D, 16G and 16J.</p>	GMPME	
23A(2)	<p>Power to:</p> <ul style="list-style-type: none"> <li>- change the amendment in the manner requested;</li> <li>- not change the amendment in the manner requested; or</li> <li>- abandon the amendment or part of the amendment.</li> </ul>	CStrP, MIP, GMPME	<p>Where Council is the planning authority.</p> <p>After considering a submission which requests a change to a 'low-impact' amendment (as described in section 16N).</p>
28(1)	Duty to notify the Minister if abandoning an amendment, with a copy of any submission considered, and a statement of reasons for the decision.	CStrP, MIP, GMPME	Note: the power to make a decision to abandon an amendment cannot be delegated
28C	<p>Duty to comply with directions of the Minister after abandoning the amendment with respect to:</p> <ul style="list-style-type: none"> <li>- providing relevant documentation; and</li> <li>- providing assistance with steps to be taken for the</li> </ul>	CStrP, MIP, GMPME	

Planning and Environment Act 2017			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	amendment.		
48A	Power to notify an applicant that the application is incomplete  Note: The notice must set out any required fees or information, the date for payment or production, and the effect of non-compliance set out in section 48B(1).	PO, CSP, PStaP, PAO, AOPD, AOPlan, PPO, VSP, SPP, TLPPS, MIP, GMPME, MPCo	Where Council is the responsible authority
48C	Power to refund a fee paid for an application which is void and of no effect under section 48B(1)	PO, CSP, PStaP, PAO, AOPD, AOPlan, PPO, VSP, SPP, TLPPS, MIP, GMPME, MPCo	Where Council is the responsible authority
96A(2)	Power to agree to consider an application for permit concurrently with preparation of proposed amendment	SPP, SP, GMPME, MPCo	The request to prepare the amendment must be made under section 16A.  Delegate must not agree to consider the application for the permit concurrently with the preparation of the proposed amendment unless it has made a decision under section 16B(a) to apply to the Minister for authorisation to prepare the amendment, with or

Planning and Environment Act 2017			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			without changes, under section 16F.
96Z	Duty to keep levy certificates and levy exemption certificates given to it under ss 47 or 96A for no less than 5 years from receipt of the certificate	ND	
158F	Power to make submissions in response to a directions panel	CStrP, MIP, GMPME	