

S11 Instrument of Appointment and Authorisation



Strathbogie Shire Council

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In this Instrument 'officer' means –

Building Surveyor **[BS]**
Deputy Municipal Building Surveyor **[DMBS]**
Deputy Municipal Building Surveyor **[DMBS]**
Director Sustainable Infrastructure **[DSI]**
Municipal Fire Prevention Officer **[MFPO]**
Assistant Municipal Fire Prevention Officer **[AMFPO]**
Assistant Municipal Fire Prevention Officer **[AMFPO]**
Director Community and Planning **[DCP]**
Manager Operations **[MO]**
Municipal Emergency Management Officer **(MEMO)**
Deputy Municipal Emergency Management Officer **[DMEMO]**
Facilities Maintenance Officer **[FMO]**
Facilities Maintenance Officer **[FMO]**
Contractor **[C]**
Technical Officer Operations **[TOP]**
Municipal Recovery Manager **[MRM]**
Deputy Municipal Recovery Manager **[DMRM]**
Deputy Municipal Recovery Manager **[DMRM]**
Senior Environmental Health Officer **[SEHO]**
Environmental Health Officer **[EHO]**
Manager Planning and Investment **[MPI]**
Principal Planner **[PP]**
Local Laws Officer **[LLO]**
Local Laws Officer **[LLO]**
Municipal Building Surveyor **[MBS]**
Chief Financial Officer **[CFO]**
Manager Asset Planning **[MAP]**
Rates and Revenue Coordinator **[RVC]**
Special Building Surveyor **[SBS]**
Manager Community Safety **[MCS]**
Strategic Planner **[SP1]**
Senior Planner **[SP2]**
Valuations Officer **[VO]**
Valuations Officer **[VO]**
Valuations Officer **[VO]**
Valuations Officer **[VO]**
Environment and Waste Coordinator **[EWC]**
Director People and Governance **(DPG)**
Principal Conduct Officer **[PCO]**
Councillor Conduct Officer **[CCO]**
Manager Community and Culture **(MCC)**
Procurement and Tenders Officer **[PTO]**
Senior Finance Officer **[SFO]**
Manager Digital Information and Technology **[MDIT]**
Customer Service Team Leader **[CSTL]**

By this Instrument of Appointment and Authorisation Strathbogie Shire Council –

PART A

OFFICIAL

1. under s 224 of *the Local Government Act 1989* – appoints the officers to be authorised officers for the administration and enforcement of –
- the *Building Act 1993* [MBS, DMBS, SBS, BS, MCS, SEHO, EHO]
- the *Country Fire Authority Act 1958* [SEHO, EHO, MCS (MFPO), DCP, MCS (DEMO), DSI, C (AMFPO), LLO (AMFPO)]
- the *Domestic Animals Act 1994* [MCS, SEHO, EHO, LLO]
- the *Emergency Management Act 2013* [SEHO, EHO, MCS (DMEMO), LLO, DSI, MO (DMEMO), MO (MEMO), DSI, C (AMFPO) MCS (MFPO), LLO (AMFPO), TOP (MRM), SEHO (DMRM)]
- the *Fire Rescue Victoria Act 1958 formerly known as the Metropolitan Fire Brigades Act 1958* [SEHO, EHO, MCS (MFPO), DSI, MCS (DMEMO), MO (MEMO), C, LLO, (AMFPO)]
- the *Fire Services Property Levy Act 2012* [DSI, RVC, VO, CFO, SFO]
- the *Food Act 1984* [MCS, SEHO, EHO]
- the *Graffiti Prevention Act 2007* [MBS, DMBS, SEHO, EHO, MCS, LLO]
- the *Housing Act 1983* [SEHO, EHO, MCS, MBS, DMBS, SBS, BS]
- the *Impounding of Livestock Act 1994* [MCS, LLO]
- the *Land Act 1958*¹ [MBS, DMBS, MCS, MAP, MO, DCP, DSI]
- the *Local Government Act 1989* [DPG, DCP, DSI, SEHO, EHO, MCS, MBS, DMBS, LLO, MO, MAP, VO, RVC, FMO, SFO, PP, SP1, SP2, MPI, SBS]
- the *Local Government Act 2020* [DPG, DCP, DSI, SEHO, EHO, MCS, MBS, DMBS, LLO, MO, MAP, VO, RVC, FMO, SFO, PP, SP1, SP2, MPI, SBS, PCO, CCO]
- the *Public Health and Wellbeing Act 2008*² [SEHO, EHO, MCS]
- Part 14 of the *Residential Tenancies Act 1997* [MBS, DMBS, MCS, SEHO, EHO]
- the *Road Management Act 2004* [MCS, LLO, MO, MAP]
- the *Road Safety Act 1986* [MCS, LLO, MO, MAP]
- the *Sex Work Act 1994* [PP, SP1, SP2, MPI, DCP]
- the *Summary Offences Act 1966* [SEHO, EHO, MCS, LLO]
- the *Tobacco Act 1987*³ [SEHO, EHO, MCS]
- the *Valuation of Land Act 1960* [DSI, CFO, SFO, RVC, VO]
the Regulations made under each of those Acts

¹ Authorisation requires the consent of the Minister (see s 190 of the Act).

² Council only to appoint a person suitably qualified or trained under s 31(2) of the Act.

³ This Act provides for the CEO of a Council to nominate a person to be an inspector for the purposes of the Act and the Secretary may then appoint them to be an inspector (see s 36). Before making the appointment, the Secretary must be satisfied that the person has the necessary skills, training and expertise to exercise the powers of an inspector (see s 36AA). An EHO appointed under the Act is also regarded as an inspector under the Act.

the local laws made under the *Local Government Act 1989* or the *Local Government Act 2020* and any other Act, Regulation or local law which relates to the functions and powers of the Council;

PART B

2. under s 3 of the *Building Act 1993* – appoints the officer to be Municipal Building Surveyor for the purposes of the *Building Act 1993*. [MBS]

AND/OR

3. under s 216C – appoints the officer to be Municipal Building Surveyor for the purpose of carrying out functions in respect of land outside of the municipal district of Council.⁴ [MBS]

4. under s 96A(1)(a) of the *Country Fire Authority Act 1958* – appoints the officer to be the fire prevention officer. [MCS (MFPO)]

OR

5. under s 96A(1)(b) of the *Country Fire Authority Act 1958* – appoints the officers to be assistant fire prevention office [DSI, C, LLO (AMFPO)]

6. under s 72 of the *Domestic Animals Act 1994* – appoints the officers to be Council authorised officers for the purposes of the *Domestic Animals Act 1994*. [MCS, LLO]

OR

7. under s 72A(1) of the *Domestic Animals Act 1994* – appoints the officers to be Council contracted authorised officers for the purposes of the *Domestic Animals Act*.⁵ [MCS, LLO]

8. under s 59G(1) of the *Emergency Management Act 2013* – appoints the officers to be municipal emergency management officers [MEMO, DMEMO, MFPO, AMFPO]

9. under s 59H(1) of the *Emergency Management Act 2013* – appoints the officers to be municipal recovery managers [MRM, DMRM, MCS]

10. under s 114(2) of the *Environment Protection Act 2017* – appoints the officers to be litter enforcement officers for the purposes of the *Environment Protection Act 2017*.⁶

[SEHO, EHO, MCS, LLO, EWC]

AND/OR

11. under s 171 of the *Environment Protection Act 2017* – appoints the officers to be residential noise enforcement officers for the purposes of s 171 of the *Environment Protection Act 2017*.⁷ [SEHO, EHO, MCS, LLO, EWC]

under s 347(3) of the *Environment Protection Act 2017* – appoints the officers for the purposes

⁴ Functions are outlined in s 216C(1)(a)-(c) of the *Building Act 1993*.

⁵ Council may appoint a person who is not an employee of the Council if the person has the qualifications or experience prescribed by the Secretary.

⁶ Litter enforcement officer must be a member of Council staff (see s 114(2)).

⁷ Residential noise enforcement officer may be a member of Council staff or a specified person (i.e. non-employee / skilled contractor) (see s 171(1)).

of r 171 of the *Environment Protection Regulations 2021* relating to on-site waste water management systems. [SEHO, EHO, MCS, LLO, EWC]

12. under s 242(2) of the *Environment Protection Act 2017* – appoints the officers for the purposes of the power or function delegated to Council under s 437(1) of the Act.⁸
[SEHO, EHO, MCS, LLO, EWC]

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13. under s 5A(1)(a) of the *Fire Rescue Victoria Act 1958* formerly known as the *Metropolitan Fire Brigades Act 1958* – appoints the officer to be the fire prevention officer for the purposes of the *Fire Rescue Victoria Act 1958*. [MCS, (MFPO)]

OR

14. under s 5A(1)(b) of the *Fire Rescue Victoria Act 1958* formerly known as the *Metropolitan Fire Brigades Act 1958* – appoints the officers to be assistant fire prevention officers for the purposes of the *Fire Rescue Victoria Act 1958*. [DSI, C, LLO (AMFPO)]

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15. under s 23 of the *Fire Services Property Levy Act 2012* – appoints the officers to be authorised officers for the purposes of the *Fire Services Property Levy Act 2012*.⁹
[RVO, VO, DSI, CFO]

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16. for the purposes of s 20 of the *Food Act 1984* – appoints the officers to be authorised officers for the purposes of the *Food Act 1984*.¹⁰
[MCS, SEHO, EHO]

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17. under s 19(1) of the *Graffiti Prevention Act 2007* – appoints the officers to be authorised persons for the purposes of carrying out Council's functions under s 18 of the *Graffiti Prevention Act 2007*.¹² [LLO, MCS]

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18. under s 71(1) of the *Housing Act 1983* – appoints the officer to be an authorised person for the purposes of entering a house or building and conducting an inspection under s 71 of the *Housing Act 1983*. [DMBS, MBS, SBS, BS, SEHO, EHO]

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19. under s 3 of the *Infringements Act 2006* – appoints the officer to be an issuing officer for the purposes of the *Infringements Act 2006*.
[LLO, MCS, SEHO, EHO, DPG, MO, MAP, PP, MPI, MCS (MFPO), DSI, C, LLO (AMFPO)]

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20. under s 190 of the *Land Act 1958* – authorises the officers for the purposes of s 190 of that Act.¹³ [MBS, DMBS, MCSM MAP, MO, DCP, DSI]

⁸ Must be an employee of Council.

⁹ Persons appointed or authorised officers under the *Local Government Act 1989* are taken to be authorised officers for the purposes of the *Fire Services Property Levy Act 2012* (except in Part 4 of that Act).

¹⁰ Council must be satisfied that the person appointed is suitably qualified or trained to be an authorised officer.

¹¹ EHOs appointed under s 29 of the *Public Health and Wellbeing Act 2008* are regarded as an authorised officer for the purposes of the *Food Act 1984*.

¹² Authorised person must agree in writing to exercise functions and powers of an authorised person under Part 4 of the Act and in accordance with any performance criteria determined by Council (see s 19(2)).

¹³ Authorisation requires the consent of the Minister (see s 190 of the Act).

OFFICIAL

21. under s 150 of the *Local Government Act 2020* – appoints the officer to be the Councillor Conduct Officer.¹⁴ [DPG, CCO]
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22. under s 29 of the *Public Health and Wellbeing Act 2008* – appoints the officer to be an Environmental Health Officer¹⁵ for the purposes of enforcing the *Public Health and Wellbeing Act 2008* and the *Food Act 1984*. [SEHO, EHO]
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23. under s 525(2) of the *Residential Tenancies Act 1997* – appoints the officers to exercise the powers set out in s 526 of the *Residential Tenancies Act 1997*. [SEHO, EHO, MBS, DMBS]
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24. under s 71(3) of the *Road Management Act 2004* – appoints the officers to be authorised officers for the purposes of the *Road Management Act 2004*. [LLO, MCS, MAP, MO, DSI, DCP]
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25. under s 59(1)(a)(ii) of the *Road Safety Act 1986* – authorises the officers to exercise the powers under s 59(1)(a) of that Act. [MCS, LLO]
- AND/OR
26. under s 59(1)(d) of the *Road Safety Act 1986* – authorises the officers to exercise the powers under s 59(1)(d) of the *Road Safety Act 1986*. [MCS, LLO]
- AND/OR
27. under s 87(1A) of the *Road Safety Act 1986* – authorises the officer to exercise the power in s 87(1A) of the *Road Safety Act 1986*.¹⁶ [MCS, LLO]
- AND/OR
28. under s 87(1B)(c) of the *Road Safety Act 1986* – authorises the officer to exercise the power in s 87(1B)(c) of the *Road Safety Act 1986*. [MCS, LLO]
- AND/OR
29. under s 87(8) of the *Road Safety Act 1986* – authorises the persons who is/are not a members of Council's staff for the purposes of s 87 of the *Road Safety Act 1986*.
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30. under r 79(1)(b) of the *Road Safety (General) Regulations 2019* – authorises the officers for the purposes of filing a charge or an offence under s 90E of the *Road Safety Act 1986* or under a regulation under that Act. [MCS, LLO]
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31. under r 5 of the *Road Safety (Traffic Management) Regulations 2019* – authorises the officers for the purposes of r 14 of the *Road Safety (Traffic Management) Regulations 2019*. [MCS, LLO]
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¹⁴ Only an 'eligible person' may be appointed.

¹⁵ Council must be sure that the EHO is suitably trained or qualified under s 31(2) of the *Public Health and Wellbeing Act 2008*.

¹⁶ Council must ensure that a person appointed under s 87 is competent, of good repute and character and has agreed in writing to exercise the functions conferred on an authorised person (see s 87(1C) of the Act).

32. under s 3(1) of the *Sex Work Act 1994* – appoints the officer to be an authorised officer of the responsible authority for the purposes of enforcing Parts 4 and 5 of the *Sex Work Act 1994*. [DCP, MPI, PP, SP1, SP2]
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33. under s 13DA(1) of the *Valuation of Land Act 1960* – appoints the person who is not member of Council's staff for the purposes of s 13DA of the *Valuation of Land Act 1960*.¹⁷ [VO]
- AND/OR
34. under s 13J of the *Valuation of Land Act 1960* – appoints the person for the purposes of s 13J of the *Valuation of Land Act 1960*.¹⁸ [VO]
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PART C

35. under –
- s 313 of the *Local Government Act 2020*¹⁹ [DCP, DSI, DPG]
 - s 527 of the *Residential Tenancies Act 1997* [DCP, MCS, SEHO, EHO]
 - s 77(2)(b) of the *Road Safety Act 1986*²⁰ [MCS, DCP, LLO, MO, MAP]
 - s 77(4) of the *Road Safety Act 1986* [MCS, DCP, LLO, MO, MAP]
 - s 170(2), 170(4), 170(6) of the *Environment Protection Act 2017* - Note – only relates to enforcement of unreasonable and aggravated noise [LLO, MCS]
 - s 347(4) of the *Environment Protection Act 2017* ##Note – only relates to an offence against a provision of Part 6.3 of the Act (litter and other waste) [LLO, MCS]
 - s 347(3) of the *Environment Protection Act 2017* and r 171 of the *Environment Protection Regulations 2021* ##Note – for specified offences relating to on-site wastewater management systems [MCS, SEHO, EHO]
 - s 347(7) of the *Environment Protection Act 2017* ##Note – where Council has been delegated powers or functions in relation to any offences against ss 25, 27, 286, 287 or 288.²¹
 - s 241 of the *Building Act 1993* [MBS, DMBS]
 - s 92 of the *Domestic Animals Act 1994*²² [MCS, LLO]
 - s 96 of the *Road Management Act 2004* [MO, MAP, MCS, LLO]
 - s 33A of the *Impounding of Livestock Act 1994* [MCS, LLO]

¹⁷ Council must ensure that the person appointed holds the qualifications or experience specified from time to time by the Minister by notice published in the Government Gazette.

¹⁸ Council must ensure that the person appointed holds the qualifications or experience specified from time to time by the Minister by notice published in the Government Gazette.

¹⁹ A person authorised under s 313 of the *Local Government Act 2020* is also authorised to bring proceedings under the *Fire Services Property Levy Act 2012* (see s 22 of the *Fire Services Property Levy Act 2012*).

²⁰ A person authorised under ss 77(2)(b) and/or 77(4) of the *Road Safety Act 1986* is also an authorised officer for the purposes of rr 203 and 307 of the *Road Safety Road Rules 2017*.

²¹ Must be an employee or officer of Council.

²² Council may only appoint an authorised officer who is also appointed under s 72 of the Act.

OFFICIAL

s 10(4) of the <i>Graffiti Prevention Act 2007</i>	[MCS, LLO]
s 219 of the <i>Public Health and Wellbeing Act 2008</i>	[SEHO, EHO, MCS]
s 45AC of the <i>Food Act 1984</i>	[SEHO, EHO, MCS]

authorises the officers generally to institute proceedings and represent Council in proceedings for offences against the Acts, Regulations and local laws described in this instrument.

It is declared that this Instrument -

- comes into force immediately upon its execution
- remains in force until varied or revoked.

This Instrument is authorised by a resolution of the Strathbogie Shire Council made

on 17th day of October 2023

The Common Seal of the) Councillor

Shire of Strathbogie) Councillor

Was hereunto affixed) Chief Executive Officer

On theday of October 2023