

1.20 DELEGATIONS REGISTER POLICY

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Document History

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OBJECTIVE

The *Local Government Act 2008* allows Council to carry out certain acts and undertakings. Other acts also impose requirements on Council and individuals within the council.

In order to provide for the efficient use of its powers and duties, the Council delegates some of its authority to the Chief Executive Officer. The Chief Executive Officer in turn may further delegate these roles and responsibilities.

The following protocols govern the use of delegated authority.

1. Any exercise of delegated authority is subject to compliance with
 - any relevant provisions of the *Local Government Act 2008* and *Regulations*
 - any other legislative requirements
 - any applicable Council policy
 - the relevant provisions of any Council By-law
2. Delegated authority will not be exercised where a conflict of interest exists or a perceived conflict of interest exist.
3. Council may revoke or vary delegation at any time if it is within Council's powers.
4. The Chief Executive Officer may revoke or vary any sub delegation at any time.
5. Delegation requires judgment. It is not appropriate to exercise delegated authority in all circumstances and some decisions, which may be contentious or attract high public interest or where no clear policy guidelines exist should be referred to the Chief Executive Officer or Council as appropriate.

AUTHORITY TO DELEGATE

The *Local Government Act 2008* allows Council to delegate powers and functions.
The specific areas are:

Division 3

32 Delegation

- (1) A council may delegate powers and functions.
- (2) A delegation may be made to:
 - (a) a local authority; or
 - (aa) a local board; or
 - (b) a council committee; or
 - (c) a local government subsidiary; or
 - (d) the CEO.
- (3) However:
 - (a) the power to impose rates cannot be delegated; and
 - (b) if power to incur financial liabilities is delegated the council must fix reasonable limits on the delegate's authority; and
 - (c) a delegation cannot duplicate or derogate from the CEO's functions (including delegated functions).

43 Role of principal member (and deputy or acting principal member)

- (1) The role of the principal member of a council is:
 - (a) to chair meetings of the council; and
 - (b) to speak on behalf of the council as the council's principal representative; and
 - (c) to carry out the civic and ceremonial functions of the principal member.
- (2) The role of the deputy principal member of a council is to carry out any of the principal member's functions when the principal member:
 - (a) delegates the functions to the deputy; or
 - (b) is absent from official duties because of illness or for some other pressing reason; or
 - (c) is on leave.
- (3) If the principal member is absent from official duties on leave or for some other reason, and there is no deputy principal member or the deputy is not available to act in the principal member's position, the council may, by resolution, appoint some other member of the council to act in the principal member's position for a specified period or until the principal member resumes official duties.

100 CEO

- (1) A council must have a CEO and may have a Deputy CEO.
- (2) If the CEO is absent or unavailable to carry out official duties:
 - (a) the Deputy CEO, if there is a Deputy who is available to act, acts as CEO; and
 - (b) if there is no Deputy CEO, or the Deputy is absent or unavailable to act, a person nominated by the CEO to act in that situation acts as CEO.
- (3) The CEO must notify the principal member of the council of a nomination made by the CEO under subsection (2)(b).
- (4) Appointments to the office of CEO are to be made, as occasion requires, by the council in accordance with the relevant Ministerial guidelines.

101 Role and functions of CEO

The CEO is responsible to the council:

- (a) to ensure that the council's policies, plans and lawful decisions are implemented; and
- (b) to undertake the day-to-day management of the council's operations (including the management of council staff); and
- (c) to provide or obtain for the council the information and advice the council reasonably requires for effectively carrying out its functions; and
- (d) to ensure that the council's constituency is kept properly informed about council policies, programs and decisions and to ensure that appropriate and prompt responses are given to specific requests for information; and
- (e) to ensure that the council's assets and resources are properly managed and maintained; and
- (f) to ensure that proper standards of financial management are maintained and, in particular, proper controls over expenditure; and
- (g) to ensure that financial and other records are properly made and maintained; and
- (h) to appoint, manage and, where necessary, terminate the appointment of council staff (other than the CEO); and
- (i) to carry out other functions delegated to the CEO by the council or assigned to the CEO under this or any other Act.

102 Delegation by CEO

The CEO may delegate (or sub –delegate) a power or function to a person or committee.

103 Other staff of the council

The CEO is responsible for the appointment of staff in accordance with a staffing plan approved by the council.

DELEGATIONS

Shire President

The Shire President has the authority to act within Section 43 of the *Local Government Act 2008*.

The Shire President may act in relation to any other legislation that explicitly provides the Principal Member powers and authorities to act.

The Shire President may act in relation to any Council policy that provides the Principal Member powers and authorities to act within the limits of the Policy.

Chief Executive Officer

The Chief Executive Officer has the authority to act under Section 100, 101 102 and 103 of the *Local Government Act 2008*.

The Chief Executive Officer may act in relation to any other legislation that explicitly provides the CEO powers and authorities to act.

The Chief Executive Officer may act in relation to any Council policy that provides the CEO powers and authorities to act within the limits of the Policy.

The Chief Executive Officer may act in relation to any By-Law that provides the CEO powers and Authorities to Act within the limits of the Policy.

The Chief Executive Officer may commit the Council to expenditure on goods and services including plant and equipment provided that expenditure and those purchases have been provided for in the budget and within expenditure limits set by Council.

The Chief Executive Officer will authorise payment for accounts for goods and services including plant and equipment purchased on behalf of the Council.

The Chief Executive Officer will maintain Assessment Record in accordance with Section 152 of the *Local Government Act 2008*.

At the request of a person to whom an entry in the Assessment Record relates, the Chief Executive Officer will ensure the person's name or address (or both) is suppressed from the publicly accessible copy of the record.

The Chief Executive Officer will authorise the issue of a Certificate of Liabilities in accordance with Section 256 of the *Local Government Act 2008* on application by a person with a proper interest in land within the council's area, issue a certificate containing:

- (a) details of outstanding rates and charges due to the council in relation to the land; and
- (b) details of statutory notices and orders issued by the council in relation to the land.

To provide information and documents from requests received from the Ombudsman in relation to complaints concerning decisions or conduct of the Council and/or Officers or employees of the Council.

To issue dispensations, permits, licences or notices in accordance with any Act, Regulation or By-law subject to compliance with any particular Council policy, and to fix any fees including expiation fees.

Approve the use of land under council control for the issuing of licences by Government and other authorities.

Represent Council on industrial relation matters.

To execute and sign contracts including employment contracts on behalf of Council.

To carry out all actions and responsibilities identified in Council's adopted policies and procedures.

Authorised Persons

In accordance with Section 112 of the *Local Government Act 2008* Council will appoint authorised persons as determined by Council.

Tender Assessment Panel

Council has appointed the following people to open and assess tenders prior to consideration by Council until the formation of a new council following a general election:

- Chief Executive Officer
- Finance Manager
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- Works and Services Manager
- Project Manager, Strategic Infrastructure Projects

ITEMS WHICH CAN NOT BE DELEGATED

The following items cannot be delegated by the Council:

- (a) make a levy or fix rates, valuations, charges, fees, fares, dues or rents;
- (b) borrow money;

- (c) approve an expenditure or money on the works, services or operations of the council not set out in a budget approved by the council;
- (d) determine allowances;
- (e) make an application, under this Act, to the Administrator or Minister; or
- (f) do other prescribed things;
- (g) the appointment of a Chief Executive Officer;
- (h) the appointment of an Auditor and determination of the Auditor's fee;
- (i) the appointment of a Deputy President;
- (j) the determination of when the Council office is normally open to the public other than minor changes;
- (k) the determination of a periodic review of electoral representation by Council;
- (l) the determination of where Council/Committee meetings are held;
- (m) the establishment of any Council Committee and approval of an appointment to the position of Chairman of any Council Committee;
- (n) the giving of directions or imposing of restrictions in respect to the calling and conduct of a Special meeting of a Committee of Council;
- (o) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property;
- (p) the adoption of a financial statement included in an annual financial report;
- (k) the review requested by a dissatisfied applicant under Part 11.8 (waiver or default of rates - financial hardship);
- (l) rating concessions under Section 167 (concessions relating to public benefit);
- (m) the acceptance of tenders which are required under the Act or Regulations to be invited by the Council;
- (n) the calling of a meeting of electors to consider a matter in relation to the management of the Council (Part 6.4);
- (o) the power to make By-laws;
- (p) any function under this or any other Act, Regulation or By-law, that is expressly required to be exercised by a resolution of the Council.

Acting Chief Executive Officer

The Acting Chief Executive Officer shall have the authority to act on behalf of the Chief Executive Officer in his absence, to make the necessary decisions and issue the necessary instructions that would otherwise be the responsibility of the Chief Executive Officer while acting for that officer; in discharging the responsibility the Acting Chief Executive Officer will at all time act reasonably.