

Delegations Policy

1 Overview

Delegations and authorisations are the mechanism by which the Council enables its officers to act on its behalf by devolving responsibility for decision making downwards through the organisation. Delegations are a fundamental part of good governance and play an important role in ensuring that Council is acting in accordance with the legal and policy framework that applies to it.

Delegations and authorisations enable Council to carry out its functions and to be accountable for the decisions and actions taken on its behalf under specific legislative provisions. Those tasked with the responsibility to carry out a function should have the corresponding authority to carry it out.

It is important that delegations and authorisations are managed effectively to ensure decisions are validly made by a lawfully appointed delegate or authorised officer.

2 Purpose

The purpose of the Delegations Policy and the associated procedure is to establish a framework for delegating authority within Council in a manner that facilitates efficiency and increases the accountability of staff for their performance.

Delegations of authority are intended to achieve the following objectives:

1. To ensure the efficiency and effectiveness of the Council's administrative processes.
2. To ensure appropriate officers have been provided with the level of authority necessary to discharge their responsibilities.
3. To ensure that delegated authority is exercised to a level by the most appropriate and competent individuals within the organisation.
4. To ensure internal controls are effective.
5. To ensure transparency in decision making by ensuring that delegations to staff are clearly defined and recorded in Council's Delegation Register.

3 Regulatory background

Councils have functions and duties they are required to perform under the *Local Government Act 1993* (the **Act**) and a range of other legislation. Section 377 of the Act allows the Council to delegate certain functions of the council to the General Manager who in turn may sub-delegate any of their functions - except the power of delegation.

Section 377(1) of the Act expressly exempts a range of functions that can be delegated to the General Manager or any other person or body.

4 Delegation principles

4.1 General

1. Only the General Manager can sub-delegate a function to a staff member; Councillors cannot directly delegate functions to council officers.
2. To be effective and of legal standing a delegation must be in writing and signed by the General Manager.
3. The General Manager may at any time wholly or partly revoke a delegation.

4. No delegate is authorised to sub-delegate any of their delegated functions to another person or body.
5. A function that has been delegated may, notwithstanding the delegation, be exercised by the General Manager.
6. A person appropriately appointed permanently or temporarily or otherwise acting in that position has the authority delegated to that position unless the appointment to act specifies otherwise.
7. Appointment to a position, whether permanent, temporary or acting must be evidenced in writing or have an audit trail.
8. In exercising a delegation, a delegate must act in the interests of the Council and not for any improper purpose.
9. A delegation only applies to a delegate's area of responsibility, for example, an officer cannot correspond on matters for which they are not responsible for.
10. A delegation that contains the words 'in consultation with' must not be exercised until the required consultation is undertaken.
11. A delegate is acting in his or her own name on behalf of the Council when exercising a delegated authority.

4.2 Delegation by position

1. Delegations are conferred on a specified position. Individuals occupying that position are responsible and accountable for their decisions made under the approved delegation attached to that position.
2. Delegation to a position allows for the continuity of the exercise of the delegated power, as the person occupying the position may change over time.

4.3 Acting positions

A person formally appointed to act in a position can exercise any delegation attached to that position unless the appointment to act specifies otherwise.

4.4 Conflicts of interest

1. A person must not exercise a delegation that would provide them with any direct or indirect personal benefit, or conflict of interest. In these circumstances, the delegate must refer to a person more senior in their line of accountability.
2. Delegates must not approve matters including their own appointment, remuneration, payment or reimbursement, promotion, transfer or secondment, travel, absence or termination.
3. Delegates must not approve matters relating to family members and/or others with whom they have a close personal relationship.
4. A person is not obliged to exercise a delegation, where in their reasonable opinion, circumstances exist that would make it more transparent or ethical for the matter to be dealt with by another delegate. The matter must be transferred to a person more senior in their line of accountability after consultation with the relevant Section or Group Leader.

4.5 Financial transactions

1. Any delegation to incur expenditure must be exercised in accordance with an approved budget or an approved source of funds.
2. Delegation limits apply to transactions and a transaction may not be separated into parts in order to meet a limit on a delegate's authority.
3. The total cost of a transaction may not be offset by deductions or trade-ins.

4.6 Staffing delegations

Staffing delegations can only be exercised in relation to staff under the supervision of the delegate.

4.7 How Delegations must be exercised

1. A delegation must be exercised within its conditions and in accordance with all Council policies and procedures and any relevant legislation.
2. A delegation must be exercised by the delegate by applying his or her own discretion and without any undue influence by any other person or body.
3. Where the exercise of a delegation requires the exercise of some preliminary, incidental or ancillary administrative function, then the delegated authority extends to the exercise of that function.

4.8 Breach of delegations

A breach of this policy or a delegation may be regarded as misconduct and can be dealt with by Council's Code of Conduct or Disciplinary Policy.

4.9 Effective date of delegations

A person may exercise a delegation from its date of approval by the General Manager. A delegation cannot operate retrospectively.

4.10 Review of the delegations of authority

Delegations will be reviewed:

1. At least every two years and within the 12 months following a local government election;
2. When there is an organisation or departmental restructure;
3. Where there is a change in a position description that modifies or creates a right to act on behalf Council;
4. At the request of a Director or Group Leader;
5. When there are amendments to legislation impacting current delegations or authorisations.

4.11 Delegations database

A delegations database is maintained by council which details all council's legislative and administrative delegations. The database can be accessed on <http://www.lglegal.com.au/>. A copy of signed delegations and authorisations are stored in Council's records management system.

5 Definitions

Administrative delegations: are those delegations that do not derive their authority from legislation. Delegations such as correspondence, media, staff and financial delegations are some examples of council's administrative delegations.

Delegate: means the staff member occupying the position title which has been authorised to carry out a delegation.

Delegation: means the conferral of an authority to an identified position to exercise a power or duty on behalf of Council. The authority is exercised in the name of the delegate.

Delegations Register: is a central register maintained by Governance Services to ensure legislative and administrative delegations and legislative authorisations are accurately stored and available to all staff and members of members of the public.

Instrument of Sub-Delegation: means a written document expressly delegating a specific statutory power and/or administrative authorisation to an identified position. For the Instrument to be effective it must be signed by the General Manager and is effective from the date of approval.

Statutory authorisation: is the means by which the General Manager can appoint ‘authorised officers’, or the authorisation of persons to exercise specified statutory powers. The names differ depending on the enabling legislation and are variously referred to as “Authorised Officer”, “Inspector”, “Authorised Person” etc.

Statutory authorisations are made to a person not a position, otherwise they operate in a similar way to delegations and an authorised officer exercises the power in their own right. Statutory authorisations are required to be in writing and signed by the General Manager.

6 Key Responsibilities

Position	Directorate	Responsibility
General Manager	Executive	To lead staff in their understanding of, and compliance with, this policy and in particular, specific delegations.
Directors	All Directorates	To communicate, implement and comply with this policy and the associated delegations.
All Council staff	Council	To comply with delegations as delegated by the General Manager.

7 References

- *Local Government Act 1993*
- Coffs Harbour City Council’s adopted Code of Conduct

8 Details of Approval and revision

- **Approval date:** 12/10/2017
- **Responsible Section:** N/A
- **Superseded policies/procedures:** N/A
- **Next review date:** 12/10/2021

Table of amendments

Amendment	Authoriser	Approval ref	Date