

Delegation and Authorisation Policy 2024

POL050



Policy No:	POL050
Policy Title:	Delegation and Authorisation Policy
Section Responsible:	Executive Services
Minute No/Ref:	784201 – 5.8
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1. INTENT

The purpose of the Delegations and Authorisation Policy is to establish a framework for delegating authority within Council.

2. SCOPE

This policy applies to Council's Mayor, General Manager and staff who require delegated authority in the performance of their roles. The policy also extends to Council-appointed committees that have delegated authority from the Council from time-to-time.

3. OBJECTIVE

1. To ensure that Council complies with the requirements of the Local Government Act (NSW) 1993, particularly Sections 377 and 378 which define what powers vested with the Council can be delegated.
2. To facilitate the effective and efficient operation of the Council by providing the General Manager with sufficient power and authority to generally manage, control and administer the affairs of the Council on a day-to-day basis.
3. To establish a framework in which Council considers it appropriate for Council staff to exercise delegated powers and functions in accordance with various legislation.
4. To ensure Council employees are provided with the required delegated authorities necessary to discharge their responsibilities and achieve the desired strategic outcomes and outputs, including but not limited to Council's Delivery Program and Operational Plan.
5. To ensure that delegated authority is exercised to a level by the most appropriate and skilled individuals within the organisation.

6. To ensure that staff exercise these delegations appropriately and within the terms of their Delegation of Authority.

4. POLICY STATEMENT

Delegations and authorisations are the legislative 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 Council acts in accordance with the legal and policy framework that applies to it.

Delegations and authorisations enable Council to carry out its functions and 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 must 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.

5. PROVISIONS

5.1 LEGISLATIVE PROVISIONS

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 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 of the Act identifies a range of functions that cannot be delegated to the Mayor, General Manager, any other person or body.

5.2 REPORTING REQUIREMENTS

1. Section 380 of the Act provides that Council's delegations are required to be reviewed during the first 12 months of each term of office.
2. Delegations of Authority to the Mayor are to be reported biennially to Council to coincide with the mayoral election.

5.3 DELEGATION PRINCIPLES

1. Delegations are intended to improve the efficiency of administrative processes by the devolution of authority and accountability to appropriate staff and/or Council committees to enable the proper discharge of their responsibilities and to ensure that internal controls are effective.
2. The Act provides that Council may delegate functions, other than those specified in Section 377.

- a. Council delegates a number of authorities and powers to the Mayor for certain functions to be exercised in a manner consistent with Council's policies and resolutions of Council.
 - b. As part of the overall running of the Council, Council also delegates a number of powers to the General Manager to ensure the efficient day-to-day management of Council.
 - c. Additionally, in accordance with Section 378 of the Act, the General Manager may delegate any of the functions of the General Manager, other than the power of delegation.
3. Delegations are to be made and exercised within the legislative framework and requirements including the Act, the Regulations, rules and by-laws, as well as the policies and budget limitations of Council.
 4. Only the General Manager can sub-delegate a function to a staff member. Councillors cannot directly delegate functions to Council officers.
 5. Council maintains a Delegations Register which sets out the sub-delegations that the General Manager has approved for staff within Council.

5.4 FORM OF DELEGATION AND APPROVAL

1. The delegation cannot go beyond what could be done by the person or body providing the delegation.
2. The form of delegation is to be worded so it is exercisable by either a body or the holder of a position, not by a specified individual.
3. The delegation must be in writing and may be expressed to be subject to conditions or limitations that must be complied with by the person exercising the delegated function.
4. The delegation must be authorised by the General Manager.
5. The General Manager has final approval over all delegations assigned by Council to the General Manager's role.

5.5 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.
3. A person or body exercising a delegated function does so in their own right, not as agent or on behalf of the person or body delegating the function.
4. A person formally appointed to act in a position can exercise any delegation attached to that position unless the appointment to act specifies otherwise.

5.6 EXERCISE OF DELEGATIONS

1. The delegations of Council are subject to the delegated power, authority, duty or function being exercised in accordance with any relevant legislation, Council policies and procedures.
2. A delegation that contains the words 'in consultation with' must not be exercised until the required consultation is undertaken.
3. A delegation cannot be exercised by a person who has a conflict of interest. If any conflict of interest occurs, this must be declared and dealt with in accordance with the Code of Conduct and any written law or policy that applies.

5.7 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.

5.8 STAFFING DELEGATIONS

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

5.9 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 Policy.

6. DEFINITIONS

- **Administrative delegations:** delegations that do not derive their authority from legislation, such as correspondence, media, and financial delegations.
- **Delegate:** the staff member occupying the position title which has been authorised to carry out a delegation.
- **Delegation:** 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.
- **Function:** powers, duties and authorities that are charged to individuals or bodies.
- **Sub-delegation:** partial or full passing of a delegation by a person/body who holds such delegations to another individual/body.

7. ROLES AND RESPONSIBILITIES

7.1 COUNCILLORS

- Authorise changes and reviews by resolution of Council.

7.2 MAYOR

- Exercise and/or perform on behalf of Council the powers, authorities, duties and functions under Section 377 of the Act.
- Read, understand and comply with any delegation limitations as they apply to the Mayor.

7.3 GENERAL MANAGER

- Monitor the adequacy of this policy and recommend appropriate changes.
- Assess and approve delegations.

7.4 DEPUTY GENERAL MANAGER / MANAGER

- Clearly define what delegations are to be issued to each position.
- Ensure that their staff members have the relevant delegations to perform their duties.
- Review delegations on a regular basis.

7.5 GOVERNMENT AND ENGAGEMENT MANAGER / SENIOR CUSTOMER SERVICE ADMINISTRATION OFFICER

- Coordinate review of delegations as per legislative requirements.
- Production of delegation documents.
- Administrative maintenance of Council's Delegations Register

7.6 STAFF

- Exercise delegations within their conditions and in accordance with all Council policies and procedures and any relevant legislation.

7.7 COMMITTEES

- Committees of Council have no delegations except for those provided by resolution of Council.

8. RELATED LEGISLATION

- Independent Commission Against Corruption Act 1988
- Local Government Act (NSW) 1993
Chapter 12 How Do Councils Operate
Part 3 Delegation of Functions
 - o Section 377 General power of Council to Delegate
 - o Section 378 Delegations by the General Manager
 - o Section 379 Delegation of regulatory functions
 - o Section 380 Review of delegations
 - o Section 381 Exercise of functions conferred or imposed on council employees under other Acts
- Local Government (General) Regulations 2021

9. RELATED POLICIES AND DOCUMENTS

- Delegation Register
- POL002 Procurement Policy
- POL017 Debt Recovery Policy
- POL025 Investment Policy
- POL026 Credit Card Policy
- POL047 Media and Public Relations Policy
- POL061 Statement of Business Ethics Policy
- POL145 Code of Conduct
- PROC-GOV-003 Procurement Manual

10. VARIATION

Council, in accordance with Section 380 Review of delegations of the Act, shall review all its delegations during the first 12 months of each term of office.

Council reserves the right to review, vary or revoke this policy in accordance with legislation, regulation and award changes, where applicable. Council may also make changes to this policy and the relevant procedures from time-to-time to improve the effectiveness of its operation.

11. PREVIOUS VERSIONS

Reference to a superseded policy number and/or name is also considered a reference to the new policy number. This policy was previously named:

- ES290 Delegations Policy 2014
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POLICY HISTORY

Responsible Officer	Executive Assistant		
Approved by	General Manager		
Approval Date	14 May 2024		
GM Signature <i>(Authorised staff to insert signature)</i>			
Next Review	31 July 2025		
Version Number	Endorsed by ELT	Endorsed by Council	Date signed by GM
1 Adopted	14/07/2014	19/08/2014	15/10/2014
2 Reviewed	14/05/2024	n/a	n/a
3. Reviewed			

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12. Acknowledgement of Training Received (if required)

I hereby acknowledge that I have received, read and understood a copy of Council's XXXXX Policy.	
Employee Name	
Position Title	
Signature	
Date	