

APPLICATION OF DELEGATIONS POLICY	
Council Policy	
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1. POLICY STATEMENT

Section 44 of the *Local Government Act 1999* provides that a Council may delegate a power or function vested or conferred under the Local Government Act, or any other Acts administered by the Council.

2. PURPOSE

2.1 Purpose

- 2.1.1 To establish a framework in which Council considers appropriate for Council Staff to exercise delegated powers and functions in accordance with various legislation.
- 2.1.2 To ensure that the Council complies with the requirements of the *Local Government Act 1999* and in particular Section 44, which defines how and what powers vested with the Council can be delegated to Council Staff.
- 2.1.3 To ensure that the appropriate sub-delegation structure is established from the Chief Executive Officer to other Council Staff in accordance with Section 44 (4)(b) of the *Local Government Act 1999*.
- 2.1.4 To ensure that Council staff have the required delegated authority to act in accordance with instructions and directives from the Council to achieve the desired outcomes and key objectives within the Council's Strategic Plan.

2.2 Scope

This policy provides a framework for Council staff to exercise their delegated powers and functions in accordance with the directives from Council, the instrument of delegation/sub-delegation and prescribed legislative requirements.

2.3 Strategic Reference

- 5 Governance and Financial Sustainability**
- 5.5 We meet or exceed legislative and accreditation requirements for all relevant programs.

3. PRINCIPLES

3.1 Making Delegations

- 3.1.1 A delegation may be made to a Council Committee, subsidiary of the Council, an authorised person, or an employee (ongoing or for the time occupying a particular office or position).
- 3.1.2 In delegating its powers and functions Council will maintain an open and transparent framework regarding the process.
- 3.1.3 Delegations will be determined and exercised with the aim of ensuring that a delegate is acting only as necessary to give effect to a policy or decision of Council, or is essential for the smooth operation of the organisation.
- 3.1.4 Council may, at any time, resolve to consider and determine any specific decision or matter and in such cases, the delegate shall not exercise delegations.

- 3.1.5 The Chief Executive Officer shall refer to the Council any decision which is considered to be contentious, controversial or otherwise warrants consideration by the Council.
- 3.1.6 Council makes the delegations by Resolution, and the Instrument of Delegation outlines the scope of the delegation. Council may also resolve that the Chief Executive Officer may sub-delegate a power or function that has been vested or conferred on him/her.
- 3.1.7 The instruments of delegations are to be read in conjunction with Council policies. If any inconsistencies exist between policy documentation and the instruments of delegations, the instrument of delegations will prevail.

3.2 Legislative Requirements

- 3.2.1 A delegation is subject to conditions or limitations determined by the Council or specified by the regulations.
- 3.2.2 A delegation may be sub-delegated unless the Council directs otherwise.
- 3.2.3 A delegation is revokable at will and does not prevent the Council from acting in a matter.
- 3.2.4 If a power or function is delegated to an employee of the Council, the employee is responsible to the Chief Executive Officer for the efficient and effective exercise or performance of that power or function.
- 3.2.5 The Council must cause a separate record to be kept of all delegations.
- 3.2.6 The Council may at any time and must within 12 months after the conclusion of each periodic election, review the delegations for the time being in force.
- 3.2.7 A person is entitled to inspect (without charge) the record of delegations at the Principal Officer of the Council during ordinary office hours.
- 3.2.8 A person is entitled, on payment of a fixed fee by the Council, to an extract from the record of delegations.

3.3 Non Delegable Powers and Functions

A Council may not delegate:

- 3.3.1 power to make a by-law
- 3.3.2 power to declare rates or a charge with the character of rate
- 3.3.3 power to borrow money or to obtain other forms of financial accommodation
- 3.3.4 power to adopt or revise a strategic management plan of the Council
- 3.3.5 power to adopt or revise an annual business plan or budget of the Council
- 3.3.6 power to approve expenditure of money of works, services or operations of the Council not contained in a budget approved by the Council
- 3.3.7 power to approve payment or reimbursement of expenses that may be paid at the discretion of the Council and for which the Council has not adopted a formal policy or made specific financial provision
- 3.3.8 power to establish a subsidiary, or to participate in the establishment of a regional subsidiary

- 3.3.9 power to make an application or recommendation, or to report or to give a notice, to the Governor or the Minister, being an application, recommendation, report or notice for which provision is made by or under this or another Act
- 3.3.10 power to fix, vary or revoke a fee under Section 188(1)(d) to (h) of the *Local Government Act 1999*
- 3.3.11 a power or function excluded from delegation by the regulations.

3.4 Operation of Delegations

- 3.4.1 Instruments of delegations will be prepared for annual review by Council, pursuant to Section 44(6) of the *Local Government Act 1999*.
- 3.4.2 Instruments of delegation will be altered as instructed by the Council and/or Chief Executive Officer.
- 3.4.3 Training, awareness and education will be provided for those staff with delegations powers vested in their positions.
- 3.4.4 Legislative amendments that may affect the delegation structure are provided by the Local Government Association on a quarterly basis and delegations will be altered accordingly.

4. RESPONSIBILITY & REVIEW

4.1 Responsible Officer

- 4.1.1 Director City Services will manage the delegation structure of the Council.
- 4.1.2 Human Resources will ensure Council Officers who have delegated authority receive appropriate training to assist them in undertaking their powers or functions efficiently and effectively.
- 4.1.3 Council Staff are responsible to the Chief Executive Officer for the efficient and effective exercise or performance of a power or function vested or conferred on them.

4.2 Availability

This policy will be available on Council's website.

4.3 Review

This policy will be reviewed within 12 months of a General Election for Local Government, or as required to meet other obligations.

5. REFERENCES

5.1 Legislation

Local Government Act 1999

5.2 Other References

RAP Delegations Policy
Sub Delegations Register