

**DELEGATION OF AUTHORITY**

**Procedure 5.1.3**

Policy No. and title	5.1	Behaviour of Councillors and Staff Policy
Procedure	5.1.3	Delegation of Authority
Version	6	
Date Adopted	8 December 2020	

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**1 OBJECTIVE**

To facilitate the effective and efficient operation of Council by providing the Mayor and Committees with sufficient power and authority to generally manage, control and administer the affairs of Council on a day to day basis.

**2 INTRODUCTION**

- a) In accordance with Section 377 of the Local Government Act 1993, Council granted the delegations as set out in the Register of delegations to the Mayor and Committees.
- b) The General Manager's Delegation, and the General Manager's power to subdelegate, is granted by a separate Delegation of Authority as resolved from time to time by Council.
- c) The General Manager has delegated those matters set out in documents titled "Delegation of Authority" for respective position holders or those in an acting capacity which are available on Council's internet for public inspection.
- d) This Delegation of Authority is to be read in conjunction with Council's Policies and Procedures as well as relevant Acts and Regulations.

**3 AUTHORITY TO DELEGATE**

In accordance with Section 377 of the Local Government Act 1993 the general power of the Council to delegate is as follows:

- a) A Council may, by resolution, delegate to the General Manager or any other person or body (not including another employee of Council) any of the functions of Council, other than the following:
  - i) The appointment of a General Manager;
  - ii) The making of a rate;
  - iii) A determination under Section 549 as to the levying of a rate;
  - iv) The making of a charge;
  - v) The fixing of a fee;
  - vi) The borrowing of money;
  - vii) The voting of money for expenditure on its works, services or operations;

- viii) The compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment);
  - ix) The acceptance of tenders to provide services currently provided by members of staff of the council;
  - x) The adoption of an operational plan (under Section 405);
  - xi) The adoption of a financial statement included in an annual financial report;
  - xii) A decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6;
  - xiii) The fixing of an amount or rate for the carrying out by the Council of work on private land;
  - xiv) The decision to carry out work on private land for an amount that is less than the amount or rate fixed by the Council for the carrying out of any such work;
  - xv) The review of a determination made by the Council, and not by a delegate of the Council, of an application for approval or an application that may be reviewed under Section 82A of the Environmental Planning and Assessment Act 1979;
  - xvi) The power of the Council to authorise the use of reasonable force for the purpose of gaining entry to premises under Section 194;
  - xvii) A decision under Section 356 to contribute money or otherwise grant financial assistance to persons;
  - xviii) A decision under Section 234 to grant leave of absence to the holder of a civic office;
  - xix) The making of an application, or the giving of a notice, to the Governor or Minister;
  - xx) This power of delegation; and
  - xxi) Any function under this or any other Act that is expressly required to be exercised by resolution of the Council.
- b) A Council may, by resolution, sub-delegate to the General Manager or any other person or body (not including another employee of the Council) any function delegated to the Council by the Departmental Chief Executive except as provided by the instrument of delegation to the Council.

#### **4 TERMS OF DELEGATION**

- a) The authorities so delegated continue and shall continue until the Council shall otherwise direct.
- b) Delegations shall be reviewed as required.

- c) Delegations will remain in force until the review is completed and revised delegations are adopted by a resolution of Council.
- d) The General Manager may delegate any of the powers or authority given to the officer by the Act or Regulations or Council resolution except the power to delegate.

### **VARIATION**

The General Manager reserves the right to renew, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.

## **DELEGATIONS OF COUNCIL TO THE MAYOR AND COMMITTEES**

### **1 DELEGATIONS TO THE MAYOR**

In order to provide for the expedient exercise and performance of its powers and duties and the efficient management of its business and responsibilities pursuant to Council's resolution of 8 August 1995, Minute number 1.21575, hereby delegates under Section 377 of the Local Government Act 1993, to the person elected to the position of MAYOR and to the person holding the aforementioned position in an acting capacity the exercise of Council's powers, functions, duties and authorities contained in legislation and matters specified in Schedule 1. This delegation shall commence on 9 August 1995 and remain in force until specifically altered or revoked in writing.

#### **NOTE:**

**Section 226, Local Government Act 1993 provides as follows:**

#### ***What is the role of the Mayor?***

The role of the Mayor is as follows:

- a) To be the leader of the Council and a leader in the local community,
- b) To advance community cohesion and promote civic awareness,
- c) To be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,
- d) To exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,
- e) To preside at meetings of the council,
- f) To ensure that meetings of the council are conducted efficiently, effectively and in accordance with the Local Government Act 1993,
- g) To ensure the timely development and adoption of the strategic plans, programs and policies of the council,
- h) To promote the effective and consistent implementation of the strategic plans, programs and policies of the council,
- i) To promote partnerships between the council and key stakeholders,
- j) To advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,
- k) In conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,
- l) To carry out the civic and ceremonial functions of the mayoral office,
- m) To represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,
- n) In consultation with the councillors, to lead performance appraisals of the general manager,

- o) To exercise any other functions of the council that the council determines.

## **SCHEDULE 1**

### **Power of Expulsion**

The Mayor, or any person presiding at a Council or Committee Meeting, is delegated the power of expulsion in accordance with Section 10(3) of the Local Government Act 1993. (Minute No. 1.20805 of 16 August 1994).

### **Urgent Matters**

To deal with any urgent matter, where such matter cannot be dealt with by the Council because of the time factor.

### **Councillor Expenses**

Approve payment of expenses to Councillors based on actual reimbursement of amounts expended in the event of the daily allowance being inadequate.

### **Donation of Artworks to Charitable Groups**

To donate chosen artwork from the Council collection in conjunction with the General Manager towards charitable groups for fundraising events with any such donations being reported to Council. (Resolution 2013.225)

### **General Manager's Leave**

Approve the General Manager's applications for leave.

### **Conferences**

To approve the attendance of Councillors as Delegates or observers at any conference, seminar or training workshop.

### **Deputations**

To make arrangements for Council to receive deputations on any matter.

### **Common Seal of Council**

To co-execute documents under the common seal of Council following proper authority.

### **Monitoring**

To monitor, through the General Manager, the implementation of Council adopted strategic plans, programs and policies of Council.

## **2 DELEGATIONS TO SECTION 355 COMMITTEES OF COUNCIL**

### **a) General Hall Committees**

Hall committees have the delegated authority under Section 377 of the Local Government Act to:

- Undertake any aspect of Hall management or operation.
- Determine priorities for maintenance or improvement of the facility.
- Recommend fees and charges to be incorporated into Council's annual operational plan.

### **b) General Tennis Club Facility Committees**

Tennis Club Committees have delegated authority under Section 377 of the Local Government Act to:

- Undertake any aspect of tennis courts/clubhouse management or operation.
- Determine priorities for maintenance or improvement of the facility.
- Recommend fees and charges to be incorporated into Council's annual operational plan.

### **c) Kempsey District Silver Band**

The Kempsey District Silver Band has delegated authority under Section 377 of the Local Government Act to:

- Provide a town band.
- Host an annual Awards Presentation.
- Provide an annual Scholarship Program.
- Host an annual Carols by Candlelight event.
- Manage and operate the Richard Blight Centre in accordance with the Lease Agreement.

### **d) Macleay Valley Community Gallery Committee**

The Macleay Valley Community Gallery Committee has delegated authority under Section 377 of the Local Government Act to:

- Undertake any aspect of Gallery management or operation.
- Determine priorities for maintenance or improvement of the facility.
- Recommend fees and charges to be incorporated into Council's annual operating plan.

### **e) The Friends of Wigay**

The Friends of Wigay has delegated authority under Section 377 of the Local Government Act to:

- Oversee the maintenance of Wigay Park.

**f) Kalateenee Recreational Reserve Committee**

The Kalateenee Recreational Reserve Committee has delegated authority under Section 377 of the Local Government Act to:

- Provide care and management of the Kalateenee Recreational Reserve.
- Provide care and management of the Dondingalong Multi-purpose Centre and toilet facilities on the Kalateenee Recreational Reserve.