

Details of advertisement

PUBLIC NOTIFICATION

DRAFT DELEGATIONS POLICY

At the Ordinary Meeting of Council held Tuesday, 8 October 2019 it was resolved that the draft Delegations Policy be placed on public exhibition for a minimum of 28 days. Council is required to notify the public and provide the opportunity for submissions regarding this policy.

The draft policy may be viewed at the Council Chambers, 1 Benerambah Street Griffith, the Griffith City Library and on Council's website at [griffith.nsw.gov.au](https://www.griffith.nsw.gov.au).

Anyone wishing to make comment on the draft Delegations Policy can do so in writing addressed to the General Manager, Griffith City Council, PO Box 485, GRIFFITH NSW 2680. Comments or submissions will be received up to **4.00 pm, Friday, 8 November 2019**.

Online submissions are also available at <https://www.griffith.nsw.gov.au>

CLAUSE	CL01
TITLE	Draft Delegations Policy
FROM	Leanne Austin, Governance Manager
TRIM REF	19/73267

SUMMARY

Griffith City Council is currently reviewing its Delegations of Authority. A draft Delegations Policy has been prepared to assist in the review process. The Draft Delegations policy will establish a framework in which Council considers it appropriate for Council employees to exercise delegated powers and functions in accordance with various legislation.

RECOMMENDATION

- (a) Council place the draft Delegations Policy on public exhibition for a minimum of 28 days.**
- (b) If any submissions are received, a further report be prepared for Council.**
- (c) If no submissions are received, the draft Delegations Policy be considered as adopted by Council as at the date of the conclusion of the advertised exhibition period.**

REPORT

The Draft Delegations policy will ensure that Council complies with the requirements of the Local Government Act 1993 particularly Sections 377 and 378 which defines what powers vested with the Council can be delegated.

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.

OPTIONS

OPTION 1

As per recommendation.

OPTION 2

Council could choose not to adopt a Delegations Policy.

OPTION 3

Any other resolution of Council.

POLICY IMPLICATIONS

This is a new draft policy which will be placed on public exhibition for comment.

FINANCIAL IMPLICATIONS

Nil

LEGAL/STATUTORY IMPLICATIONS

Local Government Act 1993 as well as various other Acts and Regulations pertaining to Local Government.

ENVIRONMENTAL IMPLICATIONS

Nil

COMMUNITY IMPLICATIONS

The draft policy provides clear guidelines for management of delegations for Council officers. The community has an expectation that Council activities are undertaken in accordance with legislation and regulations.

LINK TO STRATEGIC PLAN

This item links to Council's Strategic Plan item 3.1 Undertake Council activities within a clear framework of strategic planning, policies, procedures and service standards.

CONSULTATION

Senior Management Team

ATTACHMENTS

(a) Draft Delegations Policy

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1 Policy History

Revision No.	Council Meeting Date	Minute No.	Adoption Date
1	dd/mm/yyyy	xx/xxxx	dd/mm/yyyy
2			
3			
4			

2 Policy Objective

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 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.

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

3 Policy Statement

3.1 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 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.

3.2 Delegation Principles

3.2.1 Only the General Manager can sub-delegate a function to a staff member; Councillors cannot directly delegate functions to council officers.

3.2.2 To be effective and of legal standing a delegation must be in writing and signed by the General Manager.

3.2.3 The General Manager may at any time wholly or partly revoke a delegation.

3.2.4 No delegate is authorised to sub-delegate any of their delegated functions to another person or body.

- 3.2.5 A function that has been delegated may, notwithstanding the delegation, be exercised by the General Manager.
- 3.2.6 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.
- 3.2.7 Appointment to a position, whether permanent, temporary or acting must be evidenced in writing or have an audit trail.
- 3.2.8 In exercising a delegation, a delegate must act in the interests of the Council and not for any improper purpose.
- 3.2.9 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.
- 3.2.10 A delegate is acting in his or her own name on behalf of the Council when exercising a delegated authority.

3.3 Delegation by position

- 3.3.1 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.
- 3.3.2 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.

3.4 Acting positions

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

3.5 Conflicts of interest

- 3.5.1 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.
- 3.5.2 Delegates must not approve matters including their own appointment, remuneration, payment or reimbursement, promotion, transfer or secondment, travel, absence or termination.
- 3.5.3 Delegates must not approve matters relating to family members and/or others with whom they have a close personal relationship.
- 3.5.4 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 Director.

3.6 Financial transactions

- 3.6.1 Any delegation to incur expenditure must be exercised in accordance with an approved budget or an approved source of funds.
- 3.6.2 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.
- 3.6.3 The total cost of a transaction may not be offset by deductions or trade-ins.

3.7 Staffing delegations

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

3.8 How delegations must be exercised

- 3.8.1 A delegation must be exercised within its conditions and in accordance with all Council policies and procedures and any relevant legislation.

3.9 Breach of delegations

- 3.9.1 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.

3.10 Effective date of delegations

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

3.11 Issuing of delegations

- 3.11.1 Directors are responsible for ensuring that their staff members have the relevant delegations to perform their duties and to review these on a regular basis.
- 3.11.2 Directors are to set out the name and position of the staff member to receive the delegations and clearly define what delegations are to be issued.
- 3.11.3 Governance department is responsible for administrative maintenance of Council's Delegations Register.

3.12 Review of the delegations of authority

Delegations will be reviewed:

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



4 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.

5 Exceptions

Nil.

6 Legislation

Local Government Act 1993

7 Related Documents

Code of Conduct policy.

8 Directorate

Economic and Organisational Development