Register of Delegations
Part 1
As at 8 April 2020

bega valley shire council
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Register of delegations

Adopted  15 January 2008

Revised  12 March 2008
     1 April 2008
     2 May 2008
     11 June 2008
     12 August 2008
     15 April 2009
     29 September 2009
     28 January 2010
     22 November 2010
     4 September 2013
     17 December 2014
     28 September 2016
     9 October 2019
Introduction

In accordance with Section 377 of the Local Government Act 1993, the Council resolves to grant the delegations as set out in the Register of Delegations to the General Manager, the Mayor and Committees.

This Register of Delegations is to be read in conjunction with Council’s Policies and Procedures as well as relevant Acts and Regulations.

The register of delegations is in two parts:

- Part 1 - Delegations of Council, the Mayor, Committees and General Manager.
- Part 2 - Delegations to staff and purchasing delegations.

These documents are available to view on Council’s website and intranet and are version controlled in Council’s Electronic Data Management System – Content Management.

Position titles

The positions listed reflect the job performed rather than the individual person, and include any staff acting in the listed position.

Changes/revisions

The Register of Delegations is to be reviewed regularly and reported in line with Council Integrated Planning and Report (IPR) framework, particularly the Operational Plan.

Changes to delegations to staff and purchasing delegations can only be made through the IPR process, a formal request to the General Manager or triggered by legislative/statutory changes.

Any changes to the position titles are to be approved by the General Manager so the establishment list and position descriptions match the delegated position.

Requests for changes are to be in writing and can be sent via email.
Council

General power of the Council to delegate (Local Government Act 1993 – Section 377)

In accordance with Section 377 of the Local Government Act 1993 the Council may, by Resolution, delegate to the General Manager or any other person or body (not including another employee of the Council) any of the functions of the Council except those noted in Section 377:

Section 377 states:

(1) A council may, by Resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following:

   (a) the appointment of a General Manager,
   (b) the making of a rate,
   (c) a determination under section 549 as to the levying of a rate,
   (d) the making of a charge,
   (e) the fixing of a fee,
   (f) the borrowing of money,
   (g) the voting of money for expenditure on its works, services or operations,
   (h) 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),
   (i) the acceptance of tenders to provide services currently provided by members of staff of the council,
   (j) the adoption of an Operational Plan under section 405,
   (k) the adoption of a financial statement included in an annual financial report,
   (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
   (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
   (n) 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,
   (o) 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,
   (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
   (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,
   (r) a decision under section 234 to grant leave of absence to the holder of a civic office,
(s) the making of an application, or the giving of a notice, to the Governor or Minister,
(t) this power of delegation,
(u) any function under this or any other Act that is expressly required to be exercised by Resolution of the council.

(1A) Despite subsection (1), a council may delegate its functions relating to the granting of financial assistance if:

(a) the financial assistance is part of a specified program, and
(b) the program is included in the council’s draft Operational Plan for the year in which the financial assistance is proposed to be given, and
(c) the program’s proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
(d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council’s area.

(2) 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.

(3) A council may delegate functions to a joint organisation only with the approval, by Resolution, of the board of the joint organisation.
The Mayor

General
The term of office for a Mayor, elected by Councillors, is two years as per Section 230(1) of the Local Government Act 1993. All Councillors, including Mayors, are required to take an oath or affirmation of office as per Section 230(1) of the Act.

The role of the Mayor, in relation to this register of delegations, is to deal (in cases of emergency) with any matter not precluded by Section 377 of the Local Government Act 1993 and not being otherwise delegated. This includes development and building applications.

Mayoral Delegations

Tenders - Security/Safety
To authorise the invitation of tenders for urgent works involving security and/or public safety which have not been provided for in the adopted budget. As of 1 October 2016, Council may delegate to the General Manager the function of accepting tenders for services, where those services are not currently provided by Council staff.

Maintenance and/or Repair of Council’s Property
To authorise urgent work by way of maintenance and/or repair to Council’s property subject to expenditure less than $100,000 for any one work and which has not been provided for in the adopted budget.

Urgent Works
To authorise expenditure up to $15,000 on urgent work subject to such expenditure in any one year not exceeding $50,000; which has not been provided for in the currently adopted budget.

The term “urgent” herein refers to matters requiring immediate attention of the Mayor and decision making due to situational factors that may have occurred. Council will continue to report all urgent matters according to its statutory obligations but will also give delegation to the Mayor to act on behalf of Council in the event of:

- Natural disasters or events effecting the implementation of Council’s Business Continuity Plan (BCP)
- Significant public liability issues
- Work Health and Safety of elected officials, or
- Incidents involving Council owned or operated property

Appeals to the Land and Environment Court - Briefing of Counsel
To authorise the briefing of counsel in appeals to the Land and Environment Court in conjunction with the General Manager.

Major Developments - Public Meetings
To call (in consultation with General Manager or Director of Community, Environment & Planning) public meetings to discuss development proposals that are considered to be of a magnitude which would affect a particular part of, or the whole of the area in order that residents, ratepayers and all
interested parties have the opportunity to fully discuss and express their views to Council before any decision is entered into.

**Traffic Committee and Council’s Vote**

The Mayor, or Councillor delegate, can vote on behalf of Council on the Bega Valley Traffic Committee on urgent traffic issues arising in the December/January seasonal break.

**Delegation dealt with by Mayor to be reported to Council**

All matters dealt with under delegation to the Mayor shall be reported to the next available meeting of the Council.
Committees of Council
(of which all Councillors are members)

Council has previously had a number of Standing Committees. Council resolved to suspend these in September 2017.

Current Committees that consist of all Councillors are:

Review Panel – General Manager’s Performance.

The Panel is delegated as outlined in the Local Government Act 1993 – Section 223 Role of the Governing Body:

(i) to determine the process for appointment of the General Manager by the Council and to monitor the General Manager’s performance

And Section 23A Departmental Chief Executive’s guidelines - Guidelines for the Appointment and Oversight of General Managers, July 2011 outlines the process to be followed.

The Council’s governing body is to establish a performance review panel and delegate the task of performance reviews of the General Manager to this panel. The extent of the delegation should be clear.

Performance review panel for Bega Valley Shire Council comprises the Mayor, the Deputy Mayor, and all Councillors. Panel members are trained in the performance management of General Managers.

The role of the review panel includes:

- conducting performance reviews
- reporting the findings and recommendations of those reviews to Council, and
- development of the performance agreement.

The Council and the General Manager may agree on the involvement of an external facilitator to assist with the process of performance appraisal and the development of new performance plans. This person should be selected by the performance review panel.
Section 355 Committees

Under Section 355 of the Local Government Act 1993: (355 How a Council may exercise functions)

A function of a Council may, subject to this Chapter, be exercised:

(a) by the Council by means of the Councillors or employees, by its agents or contractors, by financial provision, by the provision of goods, equipment, services, amenities or facilities or by any other means, or

(b) by a committee of the Council, or

(c) partly or jointly by the Council and another person or persons, or

(d) jointly by the Council and another Council or Councils (including by means of a Joint Organisation or a Voluntary Regional Organisation of Councils of which the Councils concerned are members), or

(e) by a delegate of the Council (which may, for example, be a joint organisation or a voluntary regional organisation of councils of which the Council is a member).

Council resolved to delegate the following of its functions and powers to the following Section 355 Committees:

<table>
<thead>
<tr>
<th>Committee</th>
<th>Delegations of Authority</th>
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</table>
| S355 Audit, Risk and Improvement Committee    | The Audit, Risk and Improvement Committee operates within the scope of its Charter and its functions are to:  
1. Seek any information it requires from Council staff and external sources.  
2. Obtain whatever advice it requires, including advice from external sources (including legal advice).  
3. Request the attendance of Council staff and other appropriate persons at committee meetings. |
| S355 Coastal Planning and Management Committee| The roles and responsibilities of the Bega Valley Shire Coastal Planning and Management Committee as delegated by Resolution of Council on 21 October 2008 are to:  
1. Consider the extent to which Coastal plans and programs are in accord with the Coastal Wilderness Masterplan and LEP.  
2. Oversee the implementation of Council’s Estuary and Coastal Management Programs and overseeing the development of any new plans.5  
3. Be a communication conduit between a network of local volunteer groups, industry and Government agencies.  
4. Provide a solid base for Council to develop a tripartite funding partnership with the Commonwealth and State Governments for natural resource management funding.  
5. Report regularly to Council formally through the Planning and Environment Committee. |
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<thead>
<tr>
<th>Committee</th>
<th>Delegations of Authority</th>
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<tbody>
<tr>
<td>S355 Cemetery Advisory Committee</td>
<td>The roles and responsibilities of the Cemetery Advisory Committee, Adopted by Council 23 November 2016 following review of General Cemetery Committee are:</td>
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<td>2. The CAC shall have a strategic focus, liaising with Council on a range cemetery issues, making recommendations to Council as required.</td>
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<td>4. The CAC may at times be asked to provide advice and recommendations on Council policies, procedures and processes that impact on cemetery management.</td>
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<td>6. The ultimate responsibility, decision making and accountability for cemetery management decisions rests with Council.</td>
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<td>8. The Cemeteries that Council manage are:</td>
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<td>▪ Bega Cemetery</td>
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<td>▪ Bemboka Cemetery</td>
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<td>▪ Bermagui Cemetery</td>
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<td>▪ Candelo Cemetery</td>
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<td>▪ Cobargo Cemetery</td>
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<td>▪ Eden Cemetery</td>
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<td>▪ Pambula Cemetery</td>
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<td>▪ Quaama Cemetery</td>
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<td>▪ Rocky Hall Cemetery</td>
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<td>▪ Tantawangalo Cemetery</td>
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<td>▪ Towamba Cemetery</td>
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<td>▪ Wolumla Cemetery</td>
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<td>▪ Wonboyn Cemetery</td>
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<td>▪ Wyndham Cemetery</td>
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<tr>
<td>Committee</td>
<td>Delegations of Authority</td>
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<tr>
<td>S355 General Halls and Buildings Committee</td>
<td>The roles and responsibilities of the General Halls and Buildings Committee as delegated by Resolution of Council are to: 1. Make recommendations to Council on any aspect of hall and building management and/or hall and building committee operations 2. Make recommendations to Council on appropriate fees and charges structures for halls and buildings 3. Advise Council of the membership of individual hall and building community committees 4. Recommend financial allocations for individual halls and buildings from Council funds and/or funds from other sources, and 5. Establish working groups or special task groups where required and report back to the committee.</td>
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<td>Individual Hall and Building Community Committees</td>
<td>The roles and responsibilities of the Individual Hall (Community) Committees as delegated by Resolution of Council are: 1. The general care and maintenance of the facility in line with Facility Management Plans, 2. The management of bookings for the broader community’s use of the facility, 3. The implementation of the hall Facility Budgets (operational, maintenance and capital development budgets) with assistance from Council, where required as outlined in the Facility Management Plans, 4. Financial delegations of up to $5,000.00 for activities endorsed in the Facility Budget where funds are available and do not negatively impact the hall operational budget requirements, 5. Financial delegations for incidental purchases of up to $100.00, 6. Authorisation of essential emergency repairs where Council’s after hours assistance line is unable to coordinate emergency repairs, and 7. Nomination of a representative and an alternate for appointment by Resolution of Council to the Section 355 General Hall and Building Committee.</td>
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<tr>
<td>S355 General Sportsground Committee</td>
<td>The roles and responsibilities of the General Sportsground Committee as delegated by Resolution of Council are to: 1. Make recommendations to Council on any aspect of sportsground management and/or sportsground operations 2. Make recommendations to Council on appropriate fees and charges structures for sportsgrounds 3. Advise Council of the membership of individual sportsground community committees 4. Recommend financial allocations for individual sportsgrounds from Council funds and/or funds from other sources, and 5. Establish working groups or special task groups where required and report back to the committee.</td>
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<td>Committee</td>
<td>Delegations of Authority</td>
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<td>Individual Sportsground (Community) Committees</td>
<td>The roles and responsibilities of the Individual Sportsground (Community) Committees as delegated by Resolution of Council are:</td>
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<td>1. The general care and maintenance of the facility as identified in Sportsground Facility Management Plans;</td>
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<td>2. The management of bookings for the broader community’s use of the facility as identified in the Sportsgrounds Facility Management Plans;</td>
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<td>3. The implementation of the sportground facility budgets (operational, maintenance and capital) with assistance from Council, where required;</td>
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<td>4. Financial delegations of up to $5,000 by following the procurement policies of Council for activities identified in the Sportsground Facility Management Plans where funds are available and do not negatively impact the sportground operational budget requirements;</td>
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<td>5. Financial delegations for incidental purchases of up to $100.00;</td>
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<td>6. Authorisation of essential emergency repairs to maintain operation and use of the facility where Council’s after hours assistance line is unable to coordinate emergency repairs;</td>
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<td>7. Nomination of representative/s as identified in the Sportsground Committee Guidelines for appointment to the Section 355 General Sportsground Committee;</td>
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<td>8. Make recommendations related to their individual sportgrounds via their $355 Sportsground Committee representatives; and</td>
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<td>9. Provide information to Council relating to the use and management of facilities for review and comparison to be used in developing improvements and efficiencies where practical and achievable.</td>
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<tr>
<td>Individual community asset management committees</td>
<td>In relation to non-sportground community assets, Council appoints members of the community to various committees which have the following roles and responsibilities:</td>
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<tr>
<td></td>
<td>1. The general care and maintenance of the facility as identified in Facility Management Plans;</td>
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<td>2. The management of bookings for the broader community’s use of the facility as identified in the Facility Management Plans;</td>
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<td>3. Financial delegations for incidental purchases of up to $100.00;</td>
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<td>Provide information to Council relating to the use and management of facilities for review and comparison to be used in developing improvements and efficiencies where practical and achievable.</td>
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</table>
| Section 355 Access and Inclusion Advisory Committee | The roles and responsibilities of the Access and Inclusion Advisory Committee (AIAC) adopted by Council 1 February 2017 following review of the Access Advisory Committee Guidelines are:  
1. The AIAC is a formal advisory body of Council for the purposes of considering, discussing and advising on specific access and inclusion issues.  
2. The AIAC shall have a strategic focus, liaising with Council on a range of access and inclusion issues, making recommendations to Council as required.  
3. The AIAC shall assist Council to reduce barriers and improve access and inclusion to Council premises, public buildings and services for residents and visitors, including people with a disability, older and frail people, parents with prams and other community members.  
4. The AIAC may at times be asked to provide advice and recommendations on Council policies, procedures and processes that impact on access and inclusion matters.  
5. Advice and comments may be sought on major projects being undertaken by Council and significant development applications to ensure access and inclusion issues have been fully explored and resolved however the ultimate responsibility, decision and accountability rests with Council.  
6. Members of the AIAC are Council’s ‘eyes and ears’ in the community, identifying and reporting access and inclusion issues that require attention. This at times will see members liaising with key stakeholders throughout the Shire.  
7. The AIAC oversees the Access and Inclusion Improvement Grants program including making recommendations to Council.  
8. Council has a requirement under the Disability Inclusion Act to have a Disability Inclusion Action Plan (DIAP) linked with Council’s Integrated Planning and Reporting (IP&R) framework. The AIAC plays a pivotal role in supporting Council to achieve its DIAP.  
9. The AIAC will liaise across Council on access and inclusion matters with senior Council staff in attendance at AIAC meetings. |
| S355 Bega Valley Shire Community Service Medallion Committee | The roles and responsibilities of the Bega Valley Shire Community Service Medallion Committee as delegated by Resolution of Council on 20 July 2016 are to:  
1. Assist Council in acknowledging and rewarding the outstanding work of volunteers across the Shire.  
2. Act in an advisory manner to discuss, consider and advise on nominations received for the award.  
3. Provide input to Council on advertising of nominations for recipients.  
4. Review nominations received by the Council.  
5. Participate in the presentation of medallions to recipients of the award. |
| S355 Bega Eden Merrimans Aboriginal Liaison Committee | The Bega Eden Merrimans Aboriginal Liaison Committee was established as resolved by Council on 7 August 2019. Its roles and responsibilities are:  
1. To act as a formal advisory body of Council for the purposes of consider, discussing and advising on the implementation of the Memorandum of Understanding between Council and Local Aboriginal Lands Councils. |
General Manager

Under Sections 379 and 381 further delegations of regulatory functions and exercise of functions conferred or imposed on Council employees under other Acts may be delegated.

All functions of Council under the Local Government Act 1993 except:

- Those functions excluded by Section 377 of that Act; and
- Those functions delegated to Management Committees under Section 377 of that Act.

Section 381 Local Government Act 1993 - Exercise of functions conferred or imposed on council employees under other Acts:

1. If, under any other Act, a function is conferred or imposed on an employee of a council or on the mayor or a councillor of a council, otherwise than by delegation in accordance with this section, the function is taken to be conferred or imposed on the council.

2. Such a function may be delegated by the council in accordance with this Part.

3. A person must not, under any other Act, delegate a function to:
   - the general manager, except with the approval of the council
   - an employee of the council, except with the approval of the council and the general manager.

Delegations to the General Manager

The General Manager is delegated to undertake the following:

1. Implementation of Adopted Program Budget
   To implement any work, service or action provided for in the adopted budget without further reference to Council except for:
   a) the acceptance of tenders which are required under the Local Government Act 1993 to be invited by the Council, and
   b) the determination of priorities where lump sum funding only has been provided.

   To exercise the powers and functions of an authorised officer or enforcement officer under the Protection of the Environment Operations Act 1997.

3. Procedures for the Acquisition of Land for Public Works

4. Procedures for the Acquisition of Land
   To deal with all administrative and procedural matters relating to the acquisition’ lease and sale of land which has been approved by Council including negotiations following the determination by Council of the price to be paid for acquiring the land, valuations, surveys and referrals to solicitors.

5. Appeals to the Land and Environment Court - Briefing of Counsel
   To authorise the briefing of counsel for appeals to the Land and Environment Court.

6. Contracts, quotes and tenders
To accept tenders for services where those services are not currently provided by Council staff. The General Manager will also have the delegated authority to enter into contracts other than those to which section 55 of the Local Government Act 1993 applies, where:

a) the provision or performance of the works, services or equipment the subject of the relevant contract has been approved by Council, and
b) funds have been voted; and
c) accept quotations for the provision of goods, works and services between $50,000 and $500,000.

7. Waive Hiring Fees
To waive hiring fees where satisfied that circumstances warrant it.

8. Writing Off Debts
To authorise the writing off of debts to a maximum value of $20,000.
To enter into or withdraw from legal actions relating to debt.

9. Major Developments - Public Meetings
To call public meetings in respect of major proposals considered to be of a magnitude which would affect a particular part of, or the whole of the area so that residents, ratepayers and all interested parties are given an opportunity to fully discuss and express their views to Council before any decision is entered into.

10. Correspondence
To attend to all correspondence addressed to the Council (except correspondence addressed to the Mayor personally) in any of the following ways:

a) deal with it administratively
b) to refer it to a committee
c) to refer it direct to Council.

11. Minuting of Council Meetings
To obtain any necessary services for the recording of minutes of Council meetings.

12. Business Papers
To determine the composition and contents of the business paper for Council and all Committees.

13. Destruction of Records – State Records Act
To authorise the destruction of records in accordance with the adopted disposal schedule.

14. Closing of Council Offices and Library and all identified services consistent with the Pandemic Critical Incident Plan and relevant State and Commonwealth directives.
To determine the closing of Council’s offices and the library on Union/Award holidays.

15. Emergency Declarations
Council delegates to the General Manager the power to expend up to $500,000 on any single emergency event without the need to report the matter to Council provided the General Manager has confirmed that funds are available within the current approved budget of Council to cover the expenditure. A report would be provided to Council at the next available Council meeting.
These delegations extend to Directors nominated by the General Manager, from time-to-time, to act in the capacity of Acting General Manager.

Delegations by the general manager

Section 378 of the Local Government Act 1993 the General - Delegations by the general manager:

1. The general manager may delegate any of the functions of the general manager, other than this power of delegation.

2. The general manager may sub-delegate a function delegated to the general manager by the council to any person or body (including another employee of the council).

3. Subsection (2) extends to a function sub-delegated to the general manager by the council under section 377 (2).

Under Sections 379 and 381 further delegations of regulatory functions and exercise of functions conferred or imposed on Council employees under other Acts may be delegated.

All functions of Council under the Local Government Act 1993 except:

- Those functions excluded by Section 377 of that Act; and
- Those functions delegated to Management Committees under Section 377 of that Act.

Terms of delegation

The authorities so delegated continue and the General Manager shall continue to exercise such powers and authorities, until the Council shall otherwise direct, provided such delegations shall be reviewed annually.

Delegations will remain in force until the review is completed and revised delegations are adopted by a Resolution of Council.

Appeal against the exercise of authority under delegation

It is a condition to be extended by all persons to whom the foregoing powers are delegated, that all appeals by persons and applicants against the exercise of these powers must be submitted to the General Manager for review and to Council for final determination if necessary.

Authority to delegate

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.

In accordance with Section 378 of the Local Government Act 1993, the General Manager will delegate the matters set out under ‘Delegations Part 2 - Delegations to staff’ to those staff named therein, or the persons who from time to time hold, or are acting in, the positions named therein (as applicable).