



# **Delegations from Council to Mayor, Chief Executive Officer and Committees**

Part 1

Adopted by Council on 16 March 2022

Resolution: 30/22





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## **Bega Valley Shire Council**

Zingel Place  
PO Box 492  
Bega NSW 2550

Phone (02) 6499 2222

Fax (02) 6499 2200

[council@begavalley.nsw.gov.au](mailto:council@begavalley.nsw.gov.au)

[www.begavalley.nsw.gov.au](http://www.begavalley.nsw.gov.au)

## **Register of delegations**

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12 March 2008	Version 2
1 April 2008	Version 3
2 May 2008	Version 4
11 June 2008	Version 5
12 August 2008	Version 6
15 April 2009	Version 7
29 September 2009	Version 8
28 January 2010	Version 9
22 November 2010	Version 10
4 September 2013	Version 11
17 December 2014	Version 12
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9 October 2019	Version 14
8 April 2020	Version 14.1
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<b>16 March 2022</b>	<b>Version 16</b>

# 1 Introduction

In accordance with Section 377 of the *Local Government Act 1993*, the Council resolves to grant delegations set out in this Register of Delegations to the Chief Executive Officer, the Mayor and Committees of Council.

This Register of Delegations revokes all delegations granted prior to this date and 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 from Council to the Mayor, Chief Executive Officer and Committees.

Part 2 - Delegations to staff

## 1.1 Power of the Council to delegate

In accordance with Section 377 of the *Local Government Act 1993* the Council may, by Resolution, delegate to the Chief Executive Officer 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.*

## 1.2 Delegation by the Chief Executive Officer

Section 378 of the *Local Government Act 1993*:

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).*

### 1.2.1 Authority to delegate

The Chief Executive Officer may delegate any of the powers or authority given to them 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 Chief Executive Officer has delegated the matters set out under 'Part 2 - Delegations to staff' to those staff holding the positions named therein, or the persons who from time-to-time hold, or are acting in, the positions named therein (as applicable).

### 1.2.2 Exercise of functions conferred or imposed on council employees under other Acts

Section 381 of the *Local Government Act 1993*:

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.*

## 2 Delegation to the Mayor

### 2.1 Interpretation of delegations

1. Chief Executive Officer means the General Manager appointed under the Act;
2. Decisions of Council means decisions made by the elected Council from time to time;
3. Policy/Policies of the Council means references to policies adopted by the elected Council from time to time;
4. This Instrument of Delegation should be construed as:
  - a) operating in a manner which is valid and within the powers conferred on Council under the Act;
  - b) not limiting the Mayor's ability to carry out such other functions and exercise such other powers as the Council may determine from time-to-time or as may be functions of the Mayor under the Act.

### 2.2 Delegations

The Mayor, and in the absence of the Mayor, the Acting Mayor for the period of the Mayor's absence, is delegated authority under section 377 of the *Local Government Act 1993* to exercise and/or perform on behalf of the Council the following powers, authorities, duties and functions:

#### **Powers or Duties under the *Local Government Act 1993***

1. To give effect to the Law, and specifically, to carry out the role of the Mayor as prescribed in section 226 of the *Local Government Act 1993*.

#### **Powers or Duties under other Legislation**

2. If, under any other Act other than the *Local Government Act 1993*, a function is conferred or imposed on the Mayor, the function is taken to be conferred or imposed on the Council and the Mayor has delegated authority to exercise and/or perform on behalf of the Council the powers, authorities, duties and functions as prescribed under that other Act.

#### **Preside at Meetings and Functions of Council**

3. To preside at all meetings of the Council, Committees, Community Committees and Public Meetings convened by the Council at which the Mayor is present, unless the Mayor otherwise appoints another Councillor or person to perform this function.

#### **Negotiations on behalf of Council**

4. In conjunction with the Chief Executive Officer, to participate in negotiations on behalf of the Council with third parties and in connection with the sale, purchase and lease of land and buildings. This function is subject to the limitation that no contractual agreement is to be entered into without a resolution of Council.

#### **Represent Council – Government and other forums**

5. To represent the Council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level. To represent the Council, in conjunction with the Chief Executive Officer, at other forums where it is appropriate that the Mayor should present the Council's position.



### **Sign and Execute Documents**

6. To sign correspondence and other documents. This function is subject to the limitation that execution of any documents under Council Seal must be carried out in compliance with clause 400 of the *Local Government (General) Regulation 2021*.

### **Issue Media Releases**

7. To make media statements and issue media releases in respect of Council, subject to prior consultation with the Chief Executive Officer.

### **Manage the Chief Executive Officer's Contract**

8. To act as Council's delegate for the purpose of the day-to-day management of the Chief Executive Officer contract.

### **Respond to and liaise with the Minister**

9. To respond and liaise with the Minister and their representatives in relation to correspondence, inquiries or requests for information.

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

10. All matters dealt with under delegation to the Mayor shall be reported to the next available meeting of the Council.

## 3 Delegation to the Chief Executive Officer

### 3.1 Interpretation of delegations

1. This instrument of delegation should be construed as operating in a manner which is valid and within the powers conferred on the Council under the *Local Government Act 1993*.
2. References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993*.
3. References to the decisions of Council are references to decisions made by Council from time to time.
4. References to policies of the Council are references to policies adopted by Council from time to time.
5. This Instrument of Delegation recognises that certain functions are conferred on the Chief Executive Officer under section 355 of the *Local Government Act 1993*, including the day-to-day management of Council.
6. These delegations are not intended to limit the Chief Executive Officer's ability to carry out such other functions and exercise such other powers as the Council may determine from time to time or as may be functions of the Chief Executive Officer under the *Local Government Act 1993* and all other acts and regulations in force and as amended from time-to-time conferring functions on Council.
7. Is subject to, and is to be exercised in accordance with, the requirements of the relevant legislation and any resolution of Council.
8. These delegations extend to Directors nominated by the Chief Executive Officer to act in the capacity of Chief Executive Officer from time-to-time.

### 3.2 Delegations

Pursuant to section 377 of the *Local Government Act 1993* and a resolution of the Council at its meeting held on 16 March 2022, Bega Valley Shire Council:

1. delegates to the Chief Executive Officer, or to the person who acts in that position, all of the functions, powers, duties and authorities of the Council that it may lawfully delegate under the *Local Government Act 1993*, any other Act, Regulation, instrument, rule or the like (including any functions, powers, duties and authorities delegated to the Council by any authority, body, person or the like) other than the following:
  - a. the functions prescribed in section 377(1) of the *Local Government Act 1993*; and
  - b. tenders in excess of \$500,000 (including GST), or if the tender is to provide services currently provided by members of staff of the Council as indicated in 377 (1)(i).
2. Fixes the amount, pursuant to clause 213 of the *Local Government (General) Regulation 2021* and section 607 of the *Local Government Act 1993* an amount of \$20,000 for debts owed to Council that may be written off. Any debts in excess of \$20,000 are to only be written off by way of a resolution of Council.

## 4 Delegation to Council Committees

1. Council Committees have no delegation except for those provided by resolution of Council.

In the event that a Committee is established by Council, its powers, authorities, duties and functions are limited to:

- a) Section 355 of the *Local Government Act NSW 1993*,
- b) the details contained in the governance instrument adopted by Council for the Committee,
- c) any limitation imposed by the Council whether it be contained within a resolution of Council or any other written direction from Council.