

5.1.5 REVIEW OF DELEGATIONS OF AUTHORITY OF GENERAL MANAGER

DOCUMENT NUMBER	358228
REPORTING OFFICER	Teresa Breslin, Governance Officer
AUTHORISING OFFICER	Phillip McMurray, General Manager
RELEVANCE TO COMMUNITY STRATEGIC PLAN	4. Good governance: an actively engaged community and strong leadership team 4.1 Decision-making is based on collaborative, transparent and accountable leadership
FINANCIAL IMPLICATIONS	There are no Financial implications associated with this report.
LEGISLATIVE IMPLICATIONS	To comply with s.380 of the Local Government Act (1993)
POLICY IMPLICATIONS	There are no Policy implications associated with this report.
ATTACHMENTS	Nil

RECOMMENDATION

- 1. Following the review of the delegations of the General Manager in accordance with section 380 of the Local Government Act 1993, the General Manager, or the person who acts in that position, continue to be granted 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) except those functions prescribed in section 377(1) of the Local Government Act 1993.**
- 2. The General Manager, or the person who acts in that position, be granted the additional delegation to authorise urgent works and other expenditures outside of the adopted budget up to an amount of \$20,000.**

Introduction

Section 380 of the Local Government Act, 1993 requires that Council review all its delegations during the first 12 months of each term of office.

Discussion

Section 377 of the Local Government Act 1993 (the "Act") provides:

(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.

These delegations are however subject to the following limitations:

1. The General Manager is entitled to carry out any functions delegated to the Council by the Departmental Chief Executive or the Minister, subject to any express limitations imposed by the Departmental Chief Executive or Minister;
2. The delegation to the General Manager is limited in accordance with Council's adopted policies in force from time to time, and must be performed in accordance with such policies.
3. The delegated power, authority, duty or function being performed in accordance with the Law.

Further, if a function is conferred or imposed on an employee of the Council under any other legislation, the function is deemed to be conferred or imposed on the Council and is delegated to the General Manager.

In order to optimise the functioning and operations of Council it is recommended the maximum allowable delegations continue to be provided to the General Manager. Accordingly, it is proposed that the General Manager, or the person who acts in that position, continue to be granted 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) except those functions prescribed in section 377(1) of the Local Government Act, 1993 (as referred to and listed earlier in this report).

It should also be noted that the General Manager formerly received delegation to authorise urgent works and other expenditures outside of the adopted budget up to an amount of \$20,000. In order to ensure there is sufficient scope for such approvals in extraordinary circumstances it is recommended that this delegation be granted.