

13.8 Delegations of functions of Council to the Chief Executive Officer

CSP Objective: Outcome 5.2: Governance is transparent and builds trust

CSP Strategy: 5.2.1 Build strong relationships and ensure our partners and community share the responsibilities and benefits of putting plans into practice.

Delivery Program: 5.2.1.2 Support good governance through systems and processes for legislative compliance.

Summary

Section 377 of the *Local Government Act (1993)* enables Council to delegate functions to the General Manager / Chief Executive Officer, to enable the effective and efficient administration and operation of Council. Rather than provide an explicit and detailed list of delegations to the Chief Executive Officer, this report proposes to provide delegations to the Chief Executive Officer by exception.

This approach overcomes the impracticality of identifying every function imposed on Council by legislation and determining whether or not each function should be delegated. In addition, delegation by exception is the most appropriate approach to deal with frequent changing legislation.

Financial implication

Financial delegation as detailed in the attached Instrument of Delegation.

Risk implication

In the absence of delegation by Council, the Chief Executive Officer would not be able to implement the lawful decisions of the council and carry out the functions conferred on them by the Act and Regulation and other legislation.

Policy

Local Government Act (1993)

Consultation (internal)

Nil

Communication/Community engagement

Nil

Attachments

- 1 Chief Executive Officer s Instrument of Delegation - 15 October 2024 [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council -

1. [Revoke any previous delegation to the Chief Executive Officer.](#)

Report of the Chief Executive Officer

13.8 Delegations of functions of Council to the Chief Executive Officer (cont)

2. Delegate to the Chief Executive Officer the “Chief Executive Officer’s Delegation (Instrument of Delegation)”.

Role of the General Manager / Chief Executive Officer

Section 335 of the Local Government Act 1993 (the Act) provides that –

The General Manager (aka Chief Executive Officer) of a council has the following functions:

- a) to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council
- b) to implement, without undue delay, lawful decisions of the council
- c) to advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council
- d) to advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council
- e) to prepare, in consultation with the mayor and the governing body, the council’s community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report
- f) to ensure that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions
- g) to exercise any of the functions of the council that are delegated by the council to the general manager
- h) to appoint staff in accordance with the organisation structure determined under this Chapter and the resources approved by the council,
- i) to direct and dismiss staff
- j) to implement the council’s workforce management strategy
- k) any other functions that are conferred or imposed on the general manager by or under this or any other Act.

Additionally, clause 209 of the Local Government (General) Regulation 2005 (the Regulation) provides for particular responsibilities of the General Manager:

The general manager of a council must ensure that:

- (a) the provisions of the Act, this Regulation, and any other written law relating to council’s financial obligations or the keeping of accounts by councils are complied with
- (b) effective measures are taken to secure the effective, efficient and economical management of financial operations within each division of the council’s administration
- (c) authorising and recording procedures are established to provide effective control over the council’s assets, liabilities, revenue and expenditure and secure the accuracy of the accounting records, including a proper division of accounting responsibilities among the council’s staff

Report of the Chief Executive Officer

13.8 Delegations of functions of Council to the Chief Executive Officer (cont)

- (d) lines of authority and the responsibilities of members of the council's staff for related tasks are clearly defined.

Item 13.8



LOCAL GOVERNMENT ACT 1993 (NSW)

INSTRUMENT OF DELEGATION

CHIEF EXECUTIVE OFFICER'S INSTRUMENT OF DELEGATION

Pursuant to section 377 of the *Local Government Act 1993* and the resolution of the Council at its meeting held on 15 October 2024, Kiama Municipal 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) –
 - a) other than those functions prescribed in section 377(1) of the *Local Government Act 1993* as functions which may not be delegated; and subject to:
 - b) the Restrictions set out in Column 2 in respect of those functions listed in Column 1 of Schedule 1 of this Instrument; and
 - c) compliance with any applicable resolution of the Council.
2. Fixes the amount, pursuant to clause 213 of the *Local Government (General) Regulation 2021*, above which debts to the Council may be written off only by resolution of the Council to be \$2,500. A debt of or below that amount can be written off, by order, in writing by the Chief Executive Officer and details reported to the Audit Risk and Improvement Committee (ARIC) on a monthly basis.
3. Notwithstanding any other provision of this Instrument, Council delegate to the Chief Executive Officer the authority to accept all tenders, except tenders to provide services currently provided by members of staff, during the following Council recesses:
 - a) between the last meeting of the Council for the calendar year and the first meeting of the following year, with the agreement of the Mayor, or in the absence of the Mayor, with the Deputy Mayor; and
 - b) between the last meeting of the Council term and the day appointed for the next ordinary election; with the agreement of the Mayor, or in the absence of the Mayor, with the Deputy Mayor, and remaining compliant with section 393B(1)(a) of the *Local Government (General) Regulation 2021*; and
 - c) between the day appointed for the ordinary election and the first meeting of the new Council term, with the agreement of the Mayor.

CHIEF EXECUTIVE OFFICER'S DELEGATIONS: Schedule 1

	COLUMN 1 FUNCTION*	COLUMN 2 RESTRICTION**
1	General use of Delegation	The Chief Executive Officer cannot use the delegation in relation to those functions specified in clauses (a) to (u) of section 377(1) of the <i>Local Government Act 1993</i> .
2	Granting of Leases on Council Property	The Chief Executive Officer cannot do so if: <ul style="list-style-type: none"> a. the term of the proposed lease or licence exceeds ten years; or b. the rental payable to Council for the term of the lease exceeds \$1,000,000 (including GST).
3	Acceptance of Tenders invited by Council	The Chief Executive Officer cannot do so if: <ul style="list-style-type: none"> a. the value of the tender exceeds \$500,000 (including GST); or b. the tender is to provide services currently provided by members of staff of the Council.
4	Acceptance of external grant funding	The Chief Executive Officer cannot do so if the grant funding is: <ul style="list-style-type: none"> a. of a value over \$1 million where the funding supports an existing Council program and no change in internal funds is required; and b. of any value where a change in internal funds is required.
5	Approval of donations	The approval of donations to community members or groups with a value above \$1,000.
6	Legal expense contributions	The approval of contributions above \$1,000 towards legal expenses sought by the Local Government NSW.
7	Determination of Development Applications <i>Council Resolution 23/261OC</i>	Exercise authority to determine development applications and modification applications up to a value of \$10,000,000, except for developments:

	COLUMN 1 FUNCTION*	COLUMN 2 RESTRICTION**
		<ul style="list-style-type: none"> a. where developments are for subdivisions of over fifty (50) allotments; and b. where there are greater than twelve (12) individual objections.
8	<p>Grants</p> <p><i>Council Resolution 21/135OC</i></p>	<p>Exercise authority to approve and execute grants where funding supports existing Council programs and proposed funding agreements do not require amendment to internally sourced funding. Any grant accepted under this delegation must be reported to Council for information.</p> <p>Where funding offered supports new programs that have not been identified in Council's Delivery Program and/or Operational Plan, or where the proposed funding agreement would require financial contribution from Council that is not already budgeted, Council approval is required.</p>
9	Incur Council-related expenditure on a Council provided Credit Card	Up to a limit of \$20,000 per month and a transaction limit of \$20,000.

Notes to assist with interpretation:

** To avoid doubt, the list of functions in Column 1 is not to be read as the list of total functions delegated to the Chief Executive Officer pursuant to this Instrument. Column 1 merely lists those functions which are subject to restrictions as specified in Column 2.*

*** To avoid doubt, any monetary amount shown is inclusive of GST where applicable.*

13.9 Endorsement: Mayoral delegations

CSP Objective: Outcome 5.2: Governance is transparent and builds trust

CSP Strategy: 5.2.1 Build strong relationships and ensure our partners and community share the responsibilities and benefits of putting plans into practice.

Delivery Program: 5.2.1.2 Support good governance through systems and processes for legislative compliance.

Summary

The purpose of this report is for Council to review and endorse the Mayoral Delegations for the term of the current Council.

Financial implication

Nil

Risk implication

Council should note that certain responsibilities need to be delegated to the Mayor as the elected head of the council in order to ensure the effective day to day operations of council at the policy making/elected level between meetings.

Policy

Local Government Act (1993)

Consultation (internal)

Nil

Communication/Community engagement

Nil

Attachments

- 1 Mayor s Instrument of Delegation - 15 October 2024 [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council endorse the “Mayor’s Delegation (Instrument of Delegation)”.

Background

Section 380 of the Local Government Act 1993 states that each council must review its delegations during the first 12 months of each term of office. This report specifically relates to the Mayoral delegations.

The statutory role of the Mayor as defined in Section 226 of the *Local Government Act 1993* is as follows:

Report of the Chief Executive Officer

13.9 Endorsement: Mayoral delegations (cont)

- 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 this Act,
- 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 intergovernmental 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.

Council's Code of Meeting Practice also provides for certain powers that may be given to the Mayor as a delegation in order to assist with the effective conduct of a meeting. These include dealing with disorder at a council meeting.



LOCAL GOVERNMENT ACT 1993 (NSW)

INSTRUMENT OF DELEGATION

MAYOR'S INSTRUMENT OF DELEGATION

Pursuant to section 377 of the *Local Government Act 1993*, on 15 October 2024, Kiama Municipal Council endorse the following Mayoral delegations for the 2024-2028 Council term:

1. Delegates to the Mayor, or to the Councillor who acts in that position, the functions, powers, duties and authorities of the Council may be lawfully delegated 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) subject to:
 - a) the Restrictions set out in Column 2 in respect of those functions listed in Column 1 of Schedule 1 of this Instrument; and
 - b) compliance with any applicable resolution of the Council.

MAYOR'S DELEGATIONS: Schedule 1

	COLUMN 1 FUNCTION*	COLUMN 2 RESTRICTION**
1	Day-to-day oversight of and liaison with the Chief Executive Officer	Within the terms and conditions of the Chief Executive Officer's contract and section 352 of the Local Government Act 1993.
2	Approve leave applications of the Chief Executive Officer	
3	Authorise expenditure incurred by the Chief Executive Officer on behalf of the Council	In accordance with delegated limits.
4	Incur Council-related expenditure on a Council-provided Credit Card	Up to a limit of \$5,000 per month and a transaction limit of \$5,000.

	COLUMN 1 FUNCTION*	COLUMN 2 RESTRICTION**
5	Manage declarations by the Chief Executive Officer in Council's Gifts and Benefits and Conflicts of Interest Registers	
6	Authorise the holding of civic events, receptions and functions in consultation with the Chief Executive Officer	
7	Sign outgoing correspondence on behalf of the Office of the Mayor	Where consistent with resolutions and adopted policies of the Council.
8	To fix the Seal of Council on and sign as a witness any document required to be sealed.	Where consistent with resolutions and adopted policies of the Council.

Notes to assist with interpretation:

To avoid doubt, any monetary amount shown is inclusive of GST where applicable.