

## 7.2 Delegation of Authority General Manager / Councillor Election 4 December 2021

### REPORT BY THE GOVERNANCE COORDINATOR

TO 03 NOVEMBER 2021 ORDINARY MEETING

GOV400088, A0230005

### RECOMMENDATION

#### That Council:

1. **receive the report by the Governance Coordinator on the Delegation of Authority General Manager / Councillor Election 4 December 2021;**
2. **suspend the operation of the exclusions listed in Part 4 of the General Manager's Delegations of Authority for the period 5<sup>th</sup> November 2021 to 12<sup>th</sup> January 2022; and**
3. **amend Part 3 limitations of the General Manager's Delegations of Authority increasing emergency expenditure 3.1a from \$100,000 to \$250,000 and 3.2 accepting Council tenders from \$1,000,000 to \$3,000,000 for the period 5<sup>th</sup> November 2021 to 12<sup>th</sup> January 2022.**

### Executive summary

The Councillor Elections 4<sup>th</sup> December 2021 includes a Caretaker period commencing 5<sup>th</sup> November to 4 December 2021. The results of the elections are to be declared by 23<sup>rd</sup> December and the first meeting of the new Council is scheduled for the 12<sup>th</sup> January 2022. The recommended actions to suspend the delegation exclusions is to minimise disruptions of Planning and Development decisions during the election period. The expenditure limitation increases as recommended is to minimise disruption and increase the capacity of council to respond to these matters during the election period.

### Disclosure of Interest

Nil.

### Detailed report

The Caretaker Period commences on the 5 November and ends 4 December, with results declared between 21 – 24 December. The first meeting of the new Council will be 12th January, where the Councillor's Oaths will be sworn, and the Mayor and Deputy Mayor will be elected. This means that in instances where development applications, or Council Memos have to be referred to Council for decisions of development applications, there could be substantial delays without suspension of the existing Delegation Exclusions.

This would be unreasonable, and Council could be challenged in the Land and Environment Court, for deemed refusal of an application, which is 40 days.

To avoid these delays, and possible legal challenges it is prudent to temporarily amend the General Manager's delegations such that decisions on development applications can still be made during the election period.

The General Manager delegation for emergency expenditure and tender acceptance are also being recommended for temporary amendment to minimise disruption and increase the capacity of council to respond to these events during the election period.

## Community Plan implications

<b>Theme</b>	<b>Good Governance</b>
Goal	Strong civic leadership
Strategy	Provide accountable and transparent decision making for the community

## Strategic implications

### **Council Strategies**

Not Applicable.

### **Council Policies**

Delegations & Authorisations Policy.  
General Manager Delegation of Authority.

### **Legislation**

Local Government Act 1993.

## Financial implications

It is a still a requirement that all expenditure is in line with the existing Council approved budget.

## Associated Risks

Mitigate the risks of legal actions against Council for delayed Development decisions that may be challenged in the Land & Environment Court.

TIM JOHNSTON  
GOVERNANCE COORDINATOR

SIMON JONES  
DIRECTOR COMMUNITY

13 October 2021

*Attachments:* 1. Delegation of Authority for the General Manager.

### APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER



## DELEGATION OF AUTHORITY FOR THE GENERAL MANAGER

*A prosperous  
and progressive  
community*

ADOPTED		REVIEW DATE	AUGUST 2021
COUNCIL MEETING MIN NO	319/20	FILE NUMBER	A0230005
DATE:	21 OCTOBER 2020		

1. Pursuant to the powers conferred on Council by Section 377 of the *Local Government Act* 1993, (LG Act) the Council hereby authorises the General Manager to exercise the under mentioned powers, in addition to those powers conferred and imposed upon General Managers by Section 335 of the *LG Act* 1993, the functions of General Manager.
  - 1.1. Council recognises that it cannot delegate those powers, authorities, duties and functions that are required by legislation to be exercised by Council under the LG Act s. 377 (1) (a) to (u); Or requiring a resolution of Council.
  - 1.2. The delegation will remain in force until otherwise revised or revoked by resolution of Council in accordance with the *LG Act 1993* (as amended). Council must review all its delegations during the first 12 months of each term of office *LG Act* s. 380
  - 1.3. Any function that is delegated by the Council may, notwithstanding the delegation, still be exercised by the Council.
  - 1.4. The General Manager will exercise the powers, authorities, duties and functions delegated, in accordance with and subject to the provisions of any legislation and in accordance with relevant policies of Council.
2. The Council delegates to the General Manager the powers, authorities, duties and functions specified in:
  - 2.1 The *Local Government Act 1993* (as amended), subject to s. 377 of the *LG Act*.
  - 2.2 All other Acts and subordinate legislation (as amended) under which Council has powers, authorities, duties and functions, subject to s.381 of the *Local Government Act 1993* (as amended).
3. **Limitations in this delegation:-**
  - 3.1 a) To authorise any work at a cost not exceeding \$100,000, which in the General Manager's opinion is necessary to respond to an emergency, community safety issue or potential public liability issue. Any such expenditure must be reported immediately to the Mayor and to the next ordinary meeting of the Council.
  - 3.1 b) To authorise any work at a cost not exceeding \$250,000, which in the General Manager's opinion is necessary to respond to a S44 fire event or a declared natural disaster. Any such expenditure must be reported immediately to the Mayor and to the next ordinary meeting of the Council.
  - 3.2 To accept Council tenders with a contract value of up to \$1,000,000 or a contract entered into through a prescribed entity tender, where all other tender requirements of section 55 of the *Local Government Act* 1993 and Part 7 of the *Local Government Regulation* 2005 are met.
  - 3.3 To determine and write-off rates, fees, charges and other debts up to and including \$2,500.00 per annum per debt.

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**4. Exclusions in this delegation:-**

Determination of applications under the *Environmental Planning and Assessment Act* 1979, and other relevant Acts, which include:

- 4.1 The determination of a development application where a Senior Staff<sup>1</sup> member of Council or Councillor is the owner or applicant of the subject land (excluding Council owned or managed land).
  - 4.2 The determination of a development application where Council is the owner or manager of the land if the development exceeds a construction value of \$150,000.
  - 4.3 The determination of a development application for a subdivision creating more than 20 allotments.
  - 4.4 The determination of a development application for the erection, alteration and/or additions to buildings exceeding a construction value of \$3,000,000.
  - 4.5 To grant consent to a development application requiring a variation of more than 10% to a condition or standard specified in a Council policy, Development Control Plan (DCP) or Local Environment Plan (LEP), without providing 5 working days notification to Council, during which two Councillors request the application to be reported to Council for consideration.
  - 4.6 To grant consent to a development which receives 7 or more objections during assessment.
  - 4.7 To grant consent to a development application which receives 1-6 objections during assessment; without providing 5 working days notification to Council, during which two Councillors request that the application be reported to Council for consideration.
  - 4.8 The determination of a development application which upon the written request of two Councillors is to be reported to Council for consideration.
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<sup>1</sup> Senior Staff s332 Local Government Act 1993 No 30