

Item 11: Community

11.1 Delegation of Authority General Manager - December 2023 - January 2024

REPORT BY THE DIRECTOR COMMUNITY
TO 13 DECEMBER 2023 ORDINARY MEETING
GOV400103, A0230005

RECOMMENDATION

That Council:

1. **receive the report by the Director Community on the Delegation of Authority General Manager - December 2023 - January 2024; and**
 2. **suspend the operation of the exclusions listed in Part 4 of the General Manager's Delegations of Authority for the period 1 December 2023 to 31 January 2024.**
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Executive summary

The last Ordinary Council Meeting of the year occurs 13 December 2023, with the next Ordinary Council Meeting to be held 21 February 2024. The recommended actions to suspend the delegation exclusions is to minimise disruptions of Planning and Development and Procurement decisions during the December 2023 / January 2024 period.

Disclosure of Interest

Nil

Detailed report

The last Ordinary Council Meeting of the year occurs 13 December 2023, with the next Ordinary Meeting to be held on 21 February 2024. This means that in instances where development applications, or Council Memos are required to be referred to Council for decisions of development applications, there could be delays of up to 2 months 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 December and January.

Another area is that of the need for Council involvement in procurement decisions for tenders. This will allow our capital works program to proceed without undue delays caused by the ten week break in Council meetings.

Community Plan implications

Theme	Good Government
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

Nil

Associated Risks

Mitigate the risks of legal actions against Council for delayed Development decisions that may be challenged in the Land & Environment Court and mitigate the cause of undue delays in tender processes caused by the extended break in Council meeting dates.

SIMON JONES
DIRECTOR COMMUNITY

16 November 2023

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

COUNCIL MEETING MIN NO 06/22

DATE: 12 JANUARY 2022

REVIEW DATE SEPTEMBER 2024

FILE NUMBER GOV400099

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 \$250,000, 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 \$3,000,000 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 Staff¹ 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 \$1,000,000.
 - 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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¹ Senior Staff s332 Local Government Act 1993 No 30