



Delegations Register Guideline

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NAPRANUM ABORIGINAL SHIRE COUNCIL

NASC DELEGATION REGISTER

EFFECTIVE DATE:	Council Ordinary Meeting 2018
LINK TO CORPORATE PLAN:	Good Governance
REVIEW DATE:	October 2018
DELEGATION:	Authority in respect of this Policy is hereby delegated to CEO
RELATED DOCUMENTS:	Finance, Administrative and Human Resource Policy

1. Purpose

Council seeks to deliver a quality service which has, as its foundation, a high level of customer service. As part of this service, Council seeks to ensure an efficient and effective response to operational and administrative matters by delegating its authority in these matters, where it is practical, lawful and administratively responsible to do so.

The purpose of this guideline is to establish the framework for making, recording and exercising delegations made pursuant to sections 257, 258, 259 of the *Local Government Act 2009*.

2. Scope

The Local Government Act confers a broad power to Council, Mayor and the Chief Executive Officer to delegate their powers, subject to certain exceptions.

Delegation by Council is not permissible:

- if the relevant legislation specifically provides that the power must be exercised “by resolution” or that Council “adopt”.
- to an individual Councillor.
- to officers other than the CEO.

Once power is delegated to the CEO, it is then a matter for the CEO to exercise the power to further delegate to other Council officers (unless further delegation is prohibited or limited by Council).

3. Legislative Context

- Local Government Act 2009, s 257, 258 and 259

4. Guideline Details

4.1 Principles

The following principles apply to delegations made:

- Any delegation does not lessen the power of the Council or Chief Executive Officer to act in any matter.
- A delegation will refer to a delegate's office, or position, not to the individual in that position.
- In exercising a delegation, delegates should make themselves aware of any specific Council policies, decisions, local laws etc. that may be relevant to the proposal.
- Unless the context requires otherwise, a delegation relates only to authorities or functions within the delegate's area of accountability.

- Where a delegation is given to an officer or officers, unless noted specifically to the contrary in the Register, a delegate's Supervisor (who holds immediate, intermediate or ultimate line management responsibility for the delegate) may exercise the delegated authority given to the delegate even if not mentioned by title as a "Delegate". This principle extends to each Supervisor in the hierarchy up to the Chief Executive Officer, but does not:
 - apply if a subordinate delegate has already, in a particular case, exercised the delegation; or
 - permit a supervising delegate to exceed his or her own financial delegation or act outside his or her area of accountability.
- No delegate is authorised to nominate another officer to perform his or her delegated authority or function. A delegation is revocable and does not prevent the Council from acting in a matter (in which case the delegate shall not act).
- A delegation does not cease to have effect merely because the person who was the holder of the specified office when the power was delegated ceases to be the holder of the office.
- Where a delegation is to the holder of an office, this will include any person acting in that position from time to time as well as any person replacing the original office holder.
- Where a matter is contentious, controversial or otherwise warrants consideration by the Council, the Delegate shall not act or exercise any delegated power or function in relation to that matter.
- Where a power to do a thing is delegated in this Register, the delegation includes the power not to do it.
- Where a power to decide or approve an application is delegated in this Register, the delegation includes the power to:
 - approve the application;
 - approve the application, subject to reasonable and relevant conditions, or
 - refuse the application.
- Nothing in this Register authorises a delegate to do anything which is, or is likely to be, a breach of legislation or the code of conduct for employees.
- A delegation cannot be exercised where the officer holding the delegation would be put in a position of conflict of interest. This includes, in particular, where the officer would obtain a personal benefit of some material kind. In such circumstances the conflicted delegate must refer the decision to his or her Supervisor and must not exercise the delegated authority.

4.2 Registers

Napranum Aboriginal Shire Council keeps one Delegation Register, comprising three parts which contain particulars of delegations made by:

- The Council to the Chief Executive Officer.
- The Council to the Chief Executive Officer (Local Laws).
- The Chief Executive Officer to other officers.

The Register is divided into numerous sections, for each relevant Act, Regulation and Local Law in respect of which Council may exercise a power:

- listing the matters in which the right to act or exercise discretion has been so delegated by resolution of the Council.
- containing the title of the person to whom the powers are delegated.
- containing the date of the resolution by the Council.

The Register of Delegations by the CEO is further divided into numerous sections, for each relevant Act, Regulation and Local Law in respect of which Council or the CEO may exercise a power and to document the financial delegations, however, the CEO must not delegate the following powers:

- a power delegated by Council, if Council has directed the CEO not to further delegate the power; and
- a power to keep a register of interests.

4.3 New or Amended Delegations

New or amended Delegations by the Council can only be achieved by a resolution at a Council meeting.

Applications for new or amended Delegations by the CEO must be made by the completion and approval of a form approved by the Chief Executive Officer.

4.4 General Correspondence and Other Documentation

The following general limitations are to be applied where the Chief Executive Officer is delegated the power to sign a document (including contracts, applications, forms and returns) on behalf of the Council and further delegates the power to other officers:

- To be aware of specific Statutes and Council policies, decisions, local-laws etc. which relate to the matter under reply. This is a key responsibility which forms an integral part of the delegation.
- To respond to correspondence in a prompt and timely manner.
- To use common language.
- To use language which is courteous, respectful and temperate.
- Where the subject matter appears to the officer to be potentially controversial or to have major policy ramifications, the draft should be discussed with the relevant Manager, Division Manager or Chief Executive Officer prior to being finalised.

The following class of correspondence is to be signed by the CEO, unless expressly delegated to an officer:

- Letters to Ministers of the Crown, Members of State or Federal Parliament.
- Letters to elected members of other local governments.
- Letters relating to complaints about the alleged official misconduct of any employee.
- Letters to external review bodies, e.g. Ombudsman, Crime and Misconduct Commission, etc.
- The Mayor is empowered by section 236 of the Local Government Act 2009 to sign a document on behalf of the Council.

4.5 Financial Delegation

All expenditure incurred by the Council must be for Council purposes and comply with the provisions of the Local Government Act 2009 and relevant policies (including Council's Procurement Policy), as determined by Council from time to time.

4.5.1 Financial Delegation - Procurement

Financial Delegates have authority to commit funds for procurement purposes within the budget approved by Council, subject to the limits (ex GST) identified in any delegation.

The financial delegations detail the maximum value for financial related functions and activities within the Council.

Such delegation is limited to those areas and accounts for which the delegated officer has responsibility and the commitment or expenditure must be in accordance with the purpose for which the funds were allocated, Council's accounting policies and personnel policies.

An Organisational procedure may be published that establishes particular limits, guidelines and rules with respect to procurement.

4.5.2 Financial Delegations - Other

Notwithstanding the financial delegations above, authority relating to the payment of utility accounts, invoices issued by Government Entities, disposal of Council assets, writing off financial assets, and approval of progress payments where a contract has been executed are to be authorised in accordance with the relevant financial policies and procedures.

4.5.3 Accountability

Financial Delegates who authorise the commitment of Council funds are held fully accountable for that decision and should be able to justify the decision.

4.6 Responsibilities

4.6.1 Chief Executive Officer

The Chief Executive Officer is responsible for:

- Keeping the Register;
- Delegating powers to appropriately qualified employees.

4.6.2 Governance Section

The Governance Section is responsible for:

- Assisting the CEO maintain the Register, ensuring that it is updated with all authorised amendments and that appropriate version control is applied.
- Co-coordinating annual reviews of the Register.
- Monitoring and recording the reporting provisions.

5 Advice of Delegation

Once a delegation has been made, the CEO will provide general advice to each delegate. It is the responsibility of each Officer to ensure that they have an appropriate delegation before acting.

6 Related Documents

- Procurement Policy
- Code of Conduct Policy
- Organisational Structure

Adopted Date	27 March 2018
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