

DELEGATIONS POLICY

POLICY OBJECTIVE

The intent of this policy is to establish the functions of Council that it retains, and those it has delegated to others.

1. POLICY STATEMENT

This official Council ensures that Wentworth Shire Council establishes systems which deal with the delegation of powers and functions from the *Local Government Act 1993*.

2. POLICY COVERAGE

This policy applies to all areas of Council's operations and covers Council, the Mayor and the General Manager. The policy also extends to delegations from the General Manager to staff.

3. STRATEGIC PLAN LINK

Objective: 4.0 Wentworth is a caring, supportive and inclusive community that is informed and engaged in its future

Strategy: 4.1 Provide strong and effective representation, leadership, planning, decision-making and service delivery

4. DEFINITIONS AND ABBREVIATIONS

Term/Word	Definition

5. POLICY CONTENT

The *Local Government Act 1993* part 3 establishes the functions of a Council that can and cannot be delegated.

- Schedule 1 of this policy outlines the functions that are retained by Council, as required under section 377 of the Act.
- Schedule 2 of this policy outlines the functions of Council that it delegates to the Mayor.
- Schedule 3 of this policy outlines the functions of Council that it delegates to the General Manager.

It is the policy of this Council that:

- 5.1** Council retains all functions, duties and responsibilities outlined in schedule 1 of this policy.
- 5.2** Council delegates to the Mayor all powers, authorities, duties and functions outlined in schedule 2 of this policy.
- 5.3** There being no section 355 committees of council, no delegations of functions are required to section 355 Committees
- 5.4** Council delegates to the General Manager all powers, authorities, duties and functions outlined in schedule 3 of this policy.

DELEGATIONS POLICY

- 5.5** The *Local Government Act 1993* and *Local Government (General) Regulations 2021* will, at all times, have precedence over any contradictory decision of council.
- 5.6** The General Manager is to maintain a Delegations Register for all delegations made to staff.
- 5.7** The Audit, Risk and Improvement Committee will review the exercising of delegations in its audit program.

6. RELATED DOCUMENTS & LEGISLATION

Local Government Act 1993 (NSW)

Local Government (General) Regulations 2021 (NSW)

Environmental Planning and Assessment Act 1979

7. ATTACHMENTS

Schedule 1 - Council retained functions

Schedule 2 - Council to the Mayor

Schedule 3 - Council to the General Manager

8. DOCUMENT APPROVAL

This document is the latest version of the official policy of the Wentworth Shire Council, as adopted by Council on 31 January 2022. All previous versions of this policy are null and void.

This policy may be amended or revoked by Council at any time.

A PDF copy of the signed document can be accessed from Council's record management system and Reliansys.

Signed:



2 February 2022

General Manager Wentworth Shire Council

Date

DELEGATIONS POLICY

SCHEDULE 1 – COUNCIL RETAINED FUNCTIONS

Pursuant to section 377 of the *Local Government Act 1993 (NSW)*, the Council retains the following functions, duties and responsibilities.

- (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 which are required under this Act to be invited by 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 8.2 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.

DELEGATIONS POLICY

(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.

The above retained delegations are consistent with those listed in Section 377 General power of the council to delegate, which specifically prevents the council from delegating the above mentioned functions.

DELEGATIONS POLICY

SCHEDULE 2 - DELEGATIONS FROM THE COUNCIL TO THE MAYOR

Pursuant to the Local Government Act and Regulations, and any expressed policy or direction of Council, the Council in accordance with the provisions of Section 377 of the Local Government Act 1993 and every other enabling statutory power, delegates to the person who occupies the position of Mayor, to perform on behalf of Council the following powers, authorities, duties or functions.

1.0 Executive Functions

- 1.1 On behalf of the Council, supervise the General Manager in terms of the Local Government Act 1993 and Council's policies and delegations and to control and advise the General Manager in the execution of Council's decisions and policies.
- 1.2 Fulfill the functions of chief elected member of the Council and to perform all duties imposed upon the Mayor under the Local Government Act or other Acts or Regulations.
- 1.3 To give effect to the resolutions of Council in conjunction with the General Manager.
- 1.4 Approve leave for the General Manager, attendance at conferences and seminars in the terms and provisions of the General Managers Contract of Employment with Council.
- 1.5 Be the necessary signatory to documents requiring the Council's seal.

2.0 Communications, media and public relations

- 2.1 To respond to media publicity on Council matters.
- 2.2 To issue media releases and make statements to the media on behalf of council.
- 2.3 To sign letters (such as letters of support, letters to Government Ministers and the like) on behalf of the Council.

3.0 Council meetings

- 3.1 To call extraordinary meetings of the Council as deemed necessary.

4.0 Legal

- 4.1 When considered necessary or urgent, to request the General Manager to obtain legal advice or legal representation in any matter in which the Council is or may become involved.

5.0 Policy

- 5.1 To exercise in cases of necessity for the efficient and effective administration of the Council, the policy making functions of the governing body of the Council between meetings of the Council.

6.0 Urgent Works (unbudgeted items)

- 6.1 To authorise any work which is deemed urgent at a cost not exceeding \$5,000 provided such expenditure is reported to the Council at its next Ordinary Meeting.

DELEGATIONS POLICY

SCHEDULE 3 - DELEGATIONS FROM THE COUNCIL TO THE GENERAL MANAGER

Pursuant to the Local Government Act and Regulations, and any expressed policy or direction of Council, the Council in accordance with the provisions of Section 377 of the Local Government Act 1993 and every other enabling statutory power, delegates to the person who occupies the position of General Manager, to perform on behalf of Council the following powers, authorities, duties or functions.

1. The functions of Council as specified in:
 - i. The Act, and related instruments; and
 - ii. Other Acts under which Council has powers, authorities, duties and functions;
 - iii. Any lawful resolution of Council.
2. Any function delegated to the council by the Office of Local Government, unless specifically retained by Council in Schedule 1.
3. The functions delegated in accordance with and subject to all current policies and codes officially adopted by the Council.

The General Manager is not delegated to undertake any of the roles, responsibilities and functions of Council as set out in Schedule 1 of this policy.

The General Manager is not delegated to undertake any of the roles, responsibilities and functions of Council as set out in Schedule 2 of this policy.

The General Manager may delegate functions, duties, roles and responsibilities to staff members of the Council, however the General Manager retains ultimate accountability for the actions of all Council employees.

NB- These same delegations are extended to a person who is deemed to be, by a formal resolution of Council, the Acting General Manager for a period of time. These delegations do not automatically flow to an Acting General Manager unless there is a formal resolution of Council.